

भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग 2—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 4th August, 1969:—

BILL No. 68 OF 1969

A Bill to consolidate and amend the law relating to Central duties of excise.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Central Excises Act, 1969.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,—
 - (1) "assessment" means assessment of duty made by the proper officer under this Act and includes—
 - (a) re-assessment of duty made by such officer under this Act;
 - (b) provisional assessment of duty made by such officer under section 22;

Short title, extent and commencement.

Definitions.

(c) best judgment assessment of duty made by such officer under section 26; and

(d) any order of assessment made by such officer under this Act in which the duty assessed is *nil*,

(2) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

54 of 1963.

(3) "broker" or "commission agent" means a person who in the ordinary course of business makes contracts for the sale or purchase of excisable goods for others;

(4) "Central Excise Officer" means an officer of Central Excise appointed under section 4 and includes an officer of the Central Government or a State Government to whom the functions of an officer of Central Excise are entrusted under section 6;

(5) "Collector of Central Excise" includes a Special and an Additional Collector of Central Excise;

(6) "confiscable property" means any goods, land, building, plant, machinery, material, conveyance or animal or any other thing liable to confiscation under this Act;

(7) "conveyance" includes a vessel, an aircraft and a vehicle;

(8) "curer" means a person curing tobacco or coffee whether of his own growing or grown by others and includes a person curing such tobacco or coffee by the labour of his relatives, dependents or other persons whether in his employment or not;

(9) "curing", in relation to tobacco or coffee, includes wilting, drying, fermenting and any other process for rendering tobacco or coffee fit for marketing or manufacture;

(10) "dutiable goods" means any excisable goods on which duty is payable but has not been paid;

(11) "duty" means a duty of excise leviable under this Act and includes—

(i) any sum assessed to be payable under section 23 or section 26, and

(ii) any such duty assessed as *nil*;

(12) "examination", in relation to any excisable goods, includes counting, testing, measurement and weighment thereof;

(13) "excisable goods" means goods set forth in the First Schedule;

(14) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India and includes taking of goods as stores on board any vessel or aircraft bound for a place outside India;

(15) "factory" means any premises (including the precincts thereof), wherein or in any part of which excisable goods are manufactured, or wherein or in any part of which any manufacturing process connected with the production of such goods is being carried on or is ordinarily carried on, and includes a place approved by the Collector of Central Excise under section 18 wherein or in any part of which the excisable goods manufactured in such premises are deposited without payment of duty;

(16) "grower" means a person growing tobacco or coffee whether by his own labour or by that of his relatives, dependents or other persons whether in his employment or not or by that of his tenants;

(17) "home consumption", in relation to any excisable goods, means consumption of such goods within India for any purpose and includes use of such goods for manufacture of any article (whether chargeable with duty or not) in India;

(18) "India" includes the territorial waters of India;

(19) "licensee" means a person who holds a valid licence under this Act;

(20) "manufacture" includes any process incidental or ancillary to the completion of manufacture of any excisable goods, and—

(i) in relation to tobacco as defined in Item No. II.1 of the First Schedule, includes the preparation of cigarettes, cigars, cheroots, biris, cigarette or pipe or hookah tobacco, chewing tobacco and snuff;

(ii) in relation to patent or proprietary medicines as defined in Item No. V.8 of the First Schedule and in relation to cosmetics and toilet preparations as defined in Item No. V.9 of that Schedule, includes the conversion of powder into tablets or capsules the labelling or re-labelling of containers intended for consumers, re-packing from bulk packs to retail packs and the adoption of any other treatment to render the product marketable to consumers;

(iii) in relation to goods comprised in Item No. VI.8 of the First Schedule, includes sizing, beaming, warping, wrapping, winding or reeling, or any one or more of these processes and the conversion of any form of the said goods into another form of such goods;

and the word "manufacturer" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account;

(21) "offending goods" means any excisable goods liable to confiscation under this Act;

(22) "person-in-charge" means,—

(a) in relation to a vessel, the master of the vessel;

(b) in relation to an aircraft, the commander or pilot-in-charge of the aircraft;

(c) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;

(d) in relation to any other conveyance, the driver or other person-in-charge of the conveyance;

(e) in relation to a factory or warehouse or any other premises, the person who has immediate control over the affairs of the factory or warehouse or over the other premises;

(23) "prescribed", except where it occurs in the expression "prescribed by regulations", means prescribed by rules made under this Act;

(24) "private warehouse" means a warehouse for depositing excisable goods, without payment of duty, which belong to the owner of the warehouse or are held by him as a broker or commission agent;

(25) "proper officer", in relation to any functions to be performed under this Act, means the Central Excise Officer who is assigned those functions by the Board or the Collector of Central Excise;

(26) "public warehouse" means a warehouse other than a private warehouse;

(27) "regulations" means the regulations made by the Board under this Act;

(28) "rules" means the rules made by the Central Government under this Act;

(29) "sale" and "purchase", with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration;

(30) "tariff value", in relation to any excisable goods, means the tariff value thereof fixed under section 11;

(31) "Tax Recovery Officer" means—

(i) a Collector;

(ii) an Additional Collector or any other officer empowered to effect recovery of arrears of land revenue or other public demand under any law relating to land revenue or other public demand for the time being in force in the State as may be authorised by the State Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer under this Act;

(iii) any Gazetted Officer of the Central Government, who may be authorised by the Central Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer under this Act;

(32) "value", in relation to any excisable goods, means the value thereof determined in accordance with the provisions of section 10;

(33) "warehouse" means a place for depositing excisable goods (without payment of duty) and for which a licence has been granted under section 45 or renewed under section 46;

(34) "warehoused goods" means dutiable goods deposited in a warehouse.

CHAPTER II

OFFICERS OF CENTRAL EXCISE

Classes
of officers
of Cen-
tral Ex-
cise,

3. There shall be the following classes of officers of Central Excise, namely:—

(a) Collectors of Central Excise;

(b) Appellate Collectors of Central Excise;

(c) Deputy Collectors of Central Excise;

(d) Assistant Collectors of Central Excise; and

(e) such other classes of officers of Central Excise as may be appointed for the purposes of this Act.

4. (1) The Central Government may appoint such persons as it thinks fit to be officers of Central Excise.

Appoint-
ment of
officers of
Central
Excise.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may authorise the Board, a Collector of Central Excise or a Deputy or Assistant Collector of Central Excise to appoint officers of Central Excise below the rank of Assistant Collector of Central Excise.

(3) The Collector of Central Excise shall have jurisdiction in respect of such areas or places as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(4) An officer of Central Excise, other than the Collector of Central Excise, shall have jurisdiction in such areas or places as the Board may, by order, specify in this behalf.

5. (1) Subject to such conditions and limitations as the Board may impose, an officer of Central Excise may exercise the powers and discharge the duties conferred or imposed on him by or under this Act.

Powers
of officers
of Cen-
tral Ex-
cise.

(2) An officer of Central Excise may exercise the powers and discharge the duties conferred or imposed by or under this Act on any other officer of Central Excise who is lower in rank to him.

(3) Notwithstanding anything contained in this section, an Appellate Collector of Central Excise shall not exercise the powers and discharge the duties conferred or imposed on an officer of Central Excise other than those specified in Chapter IX and section 126.

6. The Central Government may, by notification in the Official Gazette, entrust either conditionally or unconditionally to any officer of the Central or State Government any functions of an officer of Central Excise under this Act.

Entrust-
ment of
functions
of Central
Excise
Officers to
certain
other
officers.

CHAPTER III

LEVY AND COLLECTION OF DUTY

7. (1) Subject to the other provisions of this Act, there shall be levied and collected duties of excise on all excisable goods which are produced or manufactured in India, as, and at the rates, set forth in the First Schedule.

Duties set
forth in
the First
Schedule
to be
levied.

(2) The provisions of sub-section (1) shall apply in respect of all excisable goods which are produced or manufactured in India by, or on behalf of, Government, as they apply in respect of excisable goods which are not produced or manufactured by, or on behalf of, Government.

Duty on excisable goods falling under more than one item or more than one sub-item of the same item of the First Schedule.

8. Save as otherwise expressly provided in this Act, the duty under section 7 shall, in the case of excisable goods falling under more than one item or more than one sub-item of the same item of the First Schedule, be charged at the rate which yields the highest amount of duty.

Duty on excisable goods produced or manufactured in the course of, or incidental or ancillary to, any process of production or manufacture.

9. Without prejudice to the provisions of section 8, the duty under section 7 shall be assessed, in respect of all excisable goods which are produced or manufactured in the course of, or incidental or ancillary to, any process of production or manufacture of any goods (whether chargeable with duty or not) at such stage of the process as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Valuation of excisable goods for purposes of *ad valorem* duties.

10. (1) Where under this Act, duty is chargeable on excisable goods with reference to value, such value shall be deemed to be—

(a) the normal price thereof, that is to say, the price which such goods would fetch at the time when they are removed for home consumption from the factory or, as the case may be, from the warehouse, on a sale in the open market between the buyer and the seller independent of each other; or

(b) where in respect of any excisable goods, the normal price thereof is not ascertainable as provided in clause (a), the nearest equivalent of such price determined in such manner as may be prescribed.

(2) The provisions of this section shall apply only in respect of those excisable goods for which a tariff value has not been prescribed under section 11.

(3) The Central Government may make rules for the purpose of giving effect to the provisions of this section and, in particular, for requiring the manufacturer or any other licensee or any other person—

(a) to furnish to the proper officer such information, in such form and in such manner as may be specified in such rules; and

(b) to produce before the proper officer any books of account or other documents of whatever nature relating to the manufacture, sale or purchase of excisable goods by such manufacturer or other licensee or person.

Explanation I.—For the purpose of sub-section (1),—

(a) the normal price of any excisable goods shall be determined on the following assumptions, namely:—

(i) that such goods are treated as having been delivered to the buyer at the factory or, as the case may be, at the warehouse;

(ii) that the seller will bear the freight, insurance, commission and all other costs, charges and expenses incidental to the sale and delivery of such goods at the factory or as the case may be, at the warehouse;

(iii) that the buyer will bear any duty or tax chargeable on such goods;

(b) a sale shall be deemed to be a sale in the open market between the buyer and the seller independent of each other, if—

(i) the price is the sole consideration;

(ii) the price is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with the seller and the buyer or any person associated in business with the buyer, other than the relationship created by the sale of the goods to be valued; and

(iii) no part of the proceeds of the subsequent sale, use or disposal of the excisable goods accrues either directly or indirectly to, or for the benefit of, the seller or any person associated in business with him;

(c) where the excisable goods to be valued are manufactured in accordance with any patented invention or a trade mark, the normal price shall be determined on the assumption that the price covers the right to use the patent or trade mark in respect of such goods.

Explanation II.—Two persons shall be deemed to be associated in business with each other if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property of both of them.

11. (1) Notwithstanding anything contained in section 10, if the Central Government is satisfied that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, fix tariff values or alter any tariff value for the time being in force for any excisable goods enumerated either specially or under general headings in the First Schedule as chargeable with duty *ad valorem*, having regard to the trend of market price of such or like goods and the duty shall be chargeable on such goods with reference to the tariff values as so fixed or altered.

Power
to fix
tariff
values

(2) Different tariff values may be fixed for different classes or descriptions of the same excisable goods.

(3) In this section "market price", in relation to any excisable goods, means the wholesale price of such goods in the ordinary course of trade in India.

Inclusion of value or exclusion of weight of bobbin, wrapper, etc., for assessment.

12. (1) Where under this Act, any excisable goods are chargeable with duty with reference to value or, as the case may be, tariff value, and if such goods are wrapped or packed or are contained in a box, bottle or other container or are wound on a bobbin, pirn, spool, reel or warp beam, the value or tariff value shall, unless the Central Government for any reason directs otherwise by notification in the Official Gazette in respect of any such goods or class of such goods specified therein, include the value of the wrapper or package in which such goods are wrapped or packed or of the box, bottle or other container in which such goods are contained or of the bobbin, pirn, spool, reel or warp beam on which such goods are wound.

(2) Where under this Act, any excisable goods are chargeable with duty with reference to weight, such weight shall not include the weight of the wrapper, package, box, bottle or other container in which such goods are wrapped, packed or contained or of the bobbin, pirn, spool, reel or warp beam on which such goods are wound unless the Central Government for any reason directs otherwise by notification in the Official Gazette in respect of any such goods or class of such goods specified therein.

(3) For the purpose of this section, the wrapper, package, box, bottle or other container or the bobbin, pirn, spool, reel or warp beam shall be deemed to be subject to the same rate of duty as the excisable goods wrapped, packed or contained therein or wound thereon.

Charge of duty on manufactured or composite articles.

13. (1) If any article (whether chargeable with duty or not) contains as part, ingredient or component, any dutiable goods, duty shall be charged in respect of each such dutiable goods according to the quantity appearing to the proper officer to have been used in the manufacture of the said article or, as the case may be, the value thereof:

Provided that before any duty is charged under this sub-section on such dutiable goods, the person affected thereby shall be given a reasonable opportunity of being heard in the matter:

Provided further that the duty charged on the article, if chargeable with duty, shall be in addition to the duty charged in the aforesaid manner on account of the said dutiable goods contained in such article as part, ingredient or component, as the case may be.

(2) The provisions of this section shall apply only in respect of such article or articles as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Liability for payment of duty and allowance for changes in bulk, etc., of excisable goods.

14. Every person who produces, cures or manufactures any excisable goods or who deposits excisable goods in a warehouse, shall, subject to the other provisions of this Act, pay the duty or duties leviable on such goods at such time and in such manner as may be prescribed:

Provided that the Central Government may, having regard to the normal trade practice, hygroscopic or evaporative nature of the excisable goods or other relevant considerations, make rules providing for allowance for changes in bulk thereof or evaporation loss therein, as the case may be, for determining the liability of such person for payment of duty on the excisable goods produced, cured, manufactured or deposited by him.

15. The rate of duty and tariff valuation, if any, applicable to any excisable goods shall be the rate and valuation in force—

Date for determination of rate of duty and tariff valuation.

(a) in the case of excisable goods removed on payment of duty from a factory or warehouse, on the date of the actual removal of such goods from the factory or warehouse, as the case may be;

(b) in the case of excisable goods removed on payment of duty from the premises of a curer, on the date on which the duty thereon is assessed; and

(c) in all other cases, on such date or dates as may be determined in accordance with the rules having regard to the probable time at which the excisable goods may have been used for home consumption.

16. (1) Save as otherwise provided in this Act, no excisable goods shall be removed by any person from any place where they are produced, cured or manufactured or from any premises appurtenant thereto which may be specified by the Collector of Central Excise in this behalf, for home consumption, export or use for manufacture of any article (whether chargeable with duty or not), in or outside such place or premises unless such person—

Removal of excisable goods generally.

(a) has determined the duty leviable on such goods and has paid the duty so determined in such manner as may be prescribed; and

(b) has complied with such other conditions as may be prescribed.

(2) If it is found subsequently that the duty determined and paid in respect of any such goods under sub-section (1) has not been correctly determined or paid, the goods may, without prejudice to any other action to which such person may be liable under this Act, be assessed by the proper officer to the correct amount of the duty leviable thereon and if the duty first determined and paid falls short of, or is in excess of, the duty thus assessed, such person shall pay the deficiency or be entitled to a refund, as the case may be.

17. The Central Government may, by notification in the Official Gazette, direct that no person shall remove or use such excisable goods or any excisable goods for such purpose, as may be specified therein, from or in any place or premises referred to in section 16, until such goods have been examined and assessed by the proper officer on presentation by such person of an application in such form and in such manner as may be prescribed by regulations and the duty thereon has been paid by such person and the written permission of the proper officer has been obtained by him on such application for such removal or use:

Certain excisable goods to be removed only on assessment by proper officer.

Provided that such goods may, prior to the examination thereof, be assessed by the proper officer on the information contained in the application and the duty so assessed may be paid, but if it is found subsequently on examination of the goods that they have not been correctly assessed, they may, without prejudice to any other action to which such person may be liable under this Act, be re-assessed to duty and if the duty first assessed and paid falls short of, or is in excess of, the duty finally assessed, such person shall pay the deficiency or be entitled to a refund, as the case may be.

Removal
of excis-
able
goods
without
payment
of duty
for depo-
sit in a
ware-
house,
etc.

18. (1) Any excisable goods may be removed, without payment of duty, from any place or premises referred to in section 16, for deposit in a warehouse in accordance with the provisions of Chapter VI or, subject to such conditions as may be prescribed, in such other place as may be approved by the Collector of Central Excise.

(2) Where any excisable goods deposited under sub-section (1) are removed from the warehouse or other place referred to in that sub-section, the provisions of section 16 or, as the case may be, of section 17, shall apply in relation to the removal of such goods from such warehouse or other place as they apply in relation to the removal of excisable goods from any place or premises referred to in section 16.

Duty on
excisable
goods
manufac-
tured at
the place
where
they
are in-
tended
to be con-
sumed.

19. Where any excisable goods are manufactured at the place at which such goods are intended to be consumed, duty on such goods shall, immediately after such manufacture, be charged with reference to the quantity thereof estimated by the proper officer (after giving the manufacturer a reasonable opportunity of being heard in the matter) to have been manufactured or, as the case may be, with reference to their value.

Restric-
tions on
removal
of excis-
able
goods.

20. (1) No excisable goods shall be removed from a factory or warehouse after five o'clock in the afternoon on the date of presentation of the annual or any supplementary budget of the Central Government to Parliament:

Provided that the Central Government may, on an application made to it in this behalf by the manufacturer or, as the case may be, the owner of warehoused goods, by order, allow, if it considers it necessary so to do, the removal of such goods from the factory or warehouse after five o'clock in the afternoon of the aforesaid date subject to such manufacturer or owner complying with such conditions, if any, as may be specified in the order:

Provided further that where such manufacturer or owner is allowed to remove the goods under the preceding proviso, he shall pay the duty at the enhanced rate, if any, which may be applicable to the goods if they had been removed on the day immediately following the date of presentation of the annual budget or, as the case may be, of the supplementary budget.

(2) Without prejudice to the provisions of sub-section (1), no excisable goods to which the provisions of section 17 apply, shall be removed from a factory or warehouse—

(i) beyond the hours fixed by the Collector of Central Excise for such removal; or

(ii) on Sundays and public holidays,

except with the permission of the proper officer, under such conditions and on payment of such fees, as may be prescribed:

Provided that where in a factory or warehouse, any day other than a Sunday is observed as a weekly holiday, the provisions of this sub-section shall have effect as if in clause (ii), for the expression "Sundays", the expression "weekly holidays" were substituted.

21. If the Central Government is satisfied that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, allow—

(a) such excisable goods, as may be specified in the notification, to be removed from any factory or warehouse without payment of the whole or part of the duty leviable thereon, for manufacture of such articles as may be so specified and subject to such conditions as may be prescribed:

Provided that if such excisable goods are not used in the manufacture of such articles or are not accounted for in the prescribed manner, the manufacturer of such articles shall pay the duty leviable or, as the case may be, the difference between the duty leviable and the duty, if any, already paid in respect of the goods not so used or not so accounted for;

(b) the deferment of payment of the whole or part of the duty leviable on such excisable goods as may be specified in the notification, which are removed or intended to be removed from any factory or warehouse, by such period as may be so specified and subject to such conditions, as may be prescribed, as regards payment of the duty so deferred and the interest chargeable thereon.

22. (1) Where, with respect to any excisable goods to which the provisions of section 17 apply,—

(a) the proper officer is satisfied that the manufacturer, curer or owner of such goods is unable to produce any document or furnish any information necessary for the assessment of duty on such goods; or

(b) the proper officer deems it necessary to subject such goods to any chemical or other test for the purpose of assessment of duty thereon; or

(c) the manufacturer, curer or owner of such goods has produced all the necessary documents and furnished full information for the assessment of duty, but the proper officer deems it necessary to make further inquiry (including an inquiry to satisfy himself about the due observance of any prescribed conditions in respect of such goods after their removal) for assessing the duty,

then, the proper officer may, on presentation by the manufacturer, curer or owner of such goods, of the application required under that section, direct that the duty due on such goods shall, pending the production of such documents or furnishing of such information or completion of such test or inquiry, be assessed provisionally if such manufacturer, curer or owner, as the case may be, executes a bond for the payment of the deficiency, if any, between the duty to be finally assessed and the duty provisionally assessed and paid:

Provided that the proper officer may permit such manufacturer, curer or owner to execute a general bond for all provisional assessments which the proper officer may, for any prescribed period, make under this section in relation to such goods of the manufacturer, curer or owner, as the case may be.

Removal of excisable goods without payment of whole or part of duty for manufacture of articles or on deferment of payment of duty.

Provisional assessment of duty.

(2) When the duty leviable on such goods is assessed finally, the amount paid in pursuance of the provisional assessment under sub-section (1) shall be adjusted against the duty finally assessed and if the duty provisionally assessed and paid falls short of, or is in excess of, the duty finally assessed, such manufacturer, curer or owner, shall pay the deficiency or be entitled to a refund, as the case may be.

Special
proce-
dure for
payment
of duty
in certain
cases.

23. (1) If the Central Government is satisfied in the case of any excisable goods that it is necessary or expedient in the public interest so to do, it may, by rules, provide for the discharge of liability for duty on such goods on payment of a certain sum by any class of producers, curers or, as the case may be, manufacturers thereof, the procedure to be followed in this behalf (including the removal of such goods from the place of curing, production or manufacture) and the time and manner of payment of the said sum.

(2) The sum referred to in sub-section (1) shall be fixed for a period (not exceeding one year) to be specified in the rules and, in fixing such sum, due regard shall be had to the following matters, namely:—

(a) the average quantity or, as the case may be, the average value of such excisable goods likely to be produced, cured or manufactured by such class of producers, curers or manufacturers during the aforesaid period;

(b) the kind and quality of equipments and materials used by such class of producers, curers or manufacturers for the production, curing or manufacture of such excisable goods and the nature of the excisable goods produced, cured or manufactured;

(c) the period for which the production, curing or manufacture of such excisable goods is carried on or remains suspended by such class of producers, curers or manufacturers during the aforesaid period; and

(d) any other relevant consideration which the Central Government thinks fit in the circumstances of the case.

Duty
already
paid to
be set off
in certain
cases.

24. (1) If the Central Government is satisfied that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, direct that credit may be allowed to such extent and subject to such conditions and limitations and at such time and in such manner as may be prescribed, of the duty paid under this Act or of the duty paid under section 2A of the Indian Tariff Act, 1934, on such materials, component parts or ingredients as may be specified in the said notification and as are used in the manufacture of such excisable goods (hereinafter in this section referred to as the finished excisable product) as may be so specified.

(2) The amount of duty credited in accordance with sub-section (1) shall be set off at such time and in such manner as may be prescribed against the duty assessed under this Act on the finished excisable product.

(3) Where any excisable goods are removed from a factory or warehouse after payment of the duty leviable thereon at the rate in force on the date of such removal and such goods are deposited in another factory or warehouse with the written permission of the Collector of Central Excise and the goods so deposited are subsequently removed from the other factory or warehouse, then,—

(a) duty shall be chargeable on such goods at the rate in force on the date of the subsequent removal thereof; and

(b) the duty already paid thereon on their first removal shall be set off in such manner as may be prescribed against the duty assessed thereon under clause (a).

(4) The provisions of sub-section (3) shall apply only in respect of such excisable goods as the Central Government may, by notification in the Official Gazette, specify in this behalf.

25. The proper officer may permit the removal as samples of such excisable goods as he thinks necessary for trade, business, exhibition or test, from any factory or warehouse if the manufacturer or, as the case may be, the owner of the goods complies with such conditions as may be prescribed.

Removal of excisable goods as samples for trade, etc.

26. (1) If any person who—

Best judgment assessment.

(a) produces tobacco or coffee without a declaration as required by section 37; or

(b) cures tobacco or coffee or manufactures any excisable goods in contravention of any provision of this Act; or

(c) being a licensee, disposes of any excisable goods (in relation to which the licence has been granted or renewed) otherwise than in the prescribed manner; or

(d) being a producer of tobacco or coffee or a licensee, fails to account, in accordance with the provisions of this Act, for any excisable goods produced, cured, manufactured, warehoused or otherwise dealt with by him,

the proper officer shall, after giving a reasonable opportunity to such person of being heard in the matter, determine the quantity or value, as the case may be, of the goods produced, cured, manufactured or disposed of or not so accounted for, to the best of his judgment and assess the duty leviable thereon and thereupon such person shall pay the duty so assessed within such period as may be prescribed.

(2) The assessment made under sub-section (1) shall be without prejudice to any other action to which such person may be liable under any other provision of this Act.

27. The Central Government may, by rules, provide for the denaturing or mutilation of any excisable goods which are ordinarily used for more than one purpose so as to render them unfit for one or more of such purposes, and where any such goods are so denatured or mutilated, they shall be chargeable with duty, if any, at such rate as would be applicable if such goods had been cured or manufactured in the denatured or mutilated form.

Denaturing and mutilation of excisable goods.

28. (1) Every grower of tobacco or coffee and every licensee under this Act shall maintain such accounts and submit such returns of the tobacco or coffee produced or, as the case may be, of the excisable goods cured, manufactured, held in stock, removed for home consumption or export or otherwise disposed of in such manner and in such form as may be prescribed by regulations.

Growers of tobacco and coffee and licensees under the

Act to
maintain
accounts
and sub-
mit re-
turns.

(2) If the Board is satisfied that it is necessary so to do for the proper levy and collection of duty on any excisable goods, it may, by notification in the Official Gazette, direct that the manufacturer thereof shall maintain accounts and submit returns of--

(a) the components, ingredients or other materials used in any process of production or manufacture of the said goods;

(b) the bye-products, intermediate or residual products of production or manufacture of the said goods; and

(c) the containers, packages or receptacles used for the disposal of the said goods,

in such form and giving such details as may be prescribed by regulations.

CHAPTER IV

EXEMPTION, REMISSION, REFUND AND REBATE OF DUTY

Power to
exempt
from
duty.

29. (1) If the Central Government is satisfied that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, exempt excisable goods of any specified description or excisable goods produced, cured or manufactured by any class of producers, curers or manufacturers from the whole or part of the duty leviable thereon subject to such conditions, as may be specified in the said notification, and to be fulfilled before or after removal from any place or premises referred to in section 16, or from a warehouse or from any other place approved under section 18.

(2) If the Central Government is satisfied that it is necessary or expedient in the public interest so to do, it may, by special order, exempt any excisable goods from the whole or part of the duty leviable thereon, under circumstances of an exceptional nature to be stated in such order and subject to such conditions as may be specified therein.

(3) If, after any goods have been manufactured,—

(a) any duty is levied on such goods, or

(b) the duty on such goods is altered, or

(c) any notification exempting such goods from the duty leviable thereon is cancelled or modified,

and such goods are used in the manufacture of any excisable goods, any exemption from duty under this section in respect of the excisable goods so manufactured, may be subject to the further condition that duty shall be paid in such manner and at such time, as may be prescribed, on the goods so used as if the goods were manufactured after such levy, alteration, cancellation or modification.

(4) Any exemption under this section may be granted so as to have retrospective effect.

(5) Where any alteration is made either in the description of any excisable goods or in the rate of duty leviable thereon, by any Bill to give effect to the financial proposals of the Central Government or by any Central Act, then, every notification issued under sub-section (1) and every order made under sub-section (2) with respect to such goods before such alteration, shall, unless such notification or order is modified or rescinded, continue in force and be deemed to have been issued or made with reference to the altered description thereof or the altered rate of duty leviable thereon, as the case may be:

Provided that nothing in this sub-section shall apply to any such notification or order—

(a) under which the rate of duty payable on such goods is higher than the rate of duty leviable thereon consequent on such alteration; or

(b) where no duty is leviable on such goods consequent on such alteration.

30. The Central Government may, by rules, provide for remission of the duty leviable or for refund of the duty already paid on any excisable goods which have become unfit for consumption or marketing, or have been lost or destroyed owing to any natural or accidental cause or due to any other cause considered unavoidable in the process of manufacture of such goods:

Remission or refund of duty on excisable goods which have become unfit for consumption, marketing, etc.

Provided that no such remission or refund shall be allowed after the excisable goods are removed from the factory or warehouse, as the case may be.

31. If the Central Government is satisfied that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, direct that any excisable goods specified therein may be returned—

Rebate of duty on return of excisable goods to the place of manufacture, etc.

(a) to the same place where they were manufactured or such other place as may be specified in the said notification, for re-conditioning, re-manufacture or removal of defects so as to render such goods fit for consumption or marketing, or

(b) to the same place where they were manufactured for destruction, if such excisable goods have become for any reason unfit for consumption or marketing and are not capable of being re-conditioned or re-manufactured or are otherwise not amenable to any treatment so as to render such goods fit for consumption or marketing,

and that rebate of the duty, if any, paid thereon shall be allowed to such extent as may be specified in the said notification and subject to such conditions as may be prescribed.

32. (1) Where any excisable goods are exported, the duty, if any, paid thereon shall, subject to the provisions of sections 35 and 36 and the rules made under sub-section (2), be repaid as rebate to the exporter of such goods:

Rebate of duty on excisable goods exported.

Provided that where the Central Government is of opinion that the duty paid on any class of excisable goods to be exported is not ascertainable, it may, having regard to the average duty likely to have been paid on such goods (which may be determined in the prescribed manner), by notification in the Official Gazette, direct that the rebate on the export of such goods shall be allowed only at such rate as may be specified therein.

(2) The Central Government may make rules for the purpose of giving effect to the provisions of sub-section (1) and, in particular, such rules may provide for—

(a) the time-limit within which excisable goods may be exported after payment of duty;

(b) the identification of excisable goods to be exported as the goods on which duty had been paid;

(c) the manner in which and the authority before which and the time-limit within which the claim for rebate may, together with the proof of export of excisable goods, be filed;

(d) the manner of determining the average duty likely to have been paid on any class of excisable goods.

Export of
excisable
goods in
bond

33. (1) Any excisable goods may be removed from a factory or warehouse for the purpose of export without payment of duty—

(a) if the manufacturer of such goods; or

(b) if the licensee of a private warehouse in which such goods are deposited; or

(c) where the exporter is not the manufacturer of such goods or the licensee of a private warehouse in which such goods are deposited, if such exporter,

executes a bond for such export and complies with such other conditions (including any condition as regards the time-limit within which the goods may be so exported and the time-limit within which the proof of such export may be furnished to the proper officer), as may be prescribed:

Provided that the proper officer may permit such manufacturer, licensee or exporter, as the case may be, to execute a general bond for such export for any prescribed period.

(2) Nothing in this section shall apply to excisable goods on the export of which no rebate is allowed under section 35.

Rebate
of duty
on excisable
goods used in the
manufacture of
articles
which are
exported.

34. (1) Where it appears to the Central Government that in respect of any class of articles manufactured in India and exported, a rebate should be allowed of the duty paid on any class of excisable goods used in the manufacture of such class of articles, the Central Government may, by notification in the Official Gazette, direct that such duty shall, subject to the provisions of sections 35 and 36 and the rules made under sub-section (2), be repaid as rebate in respect of such class of articles to the exporter thereof.

(2) The Central Government may make rules for the purpose of giving effect to the provisions of sub-section (1) and, in particular, such rules may provide for—

(a) the payment of the rebate equal to the amount of duty actually paid on excisable goods used in the manufacture of such class of articles or the average duty likely to have been paid on excisable goods used in the manufacture of such class of articles either by manufacturers generally or by any particular manufacturer;

(b) the manner of determining the average duty likely to have been paid on excisable goods used in the manufacture of such class of articles either by manufacturers generally or by any particular manufacturer;

(c) the time-limit, after manufacture, within which the articles may be exported;

(d) the production of such certificates, documents and other evidence in support of each claim of rebate as may be necessary;

(e) requiring the manufacturer to give access to every part of his manufactory to any Central Excise Officer specially authorised in this behalf by the Assistant Collector of Central Excise to enable such officer to inspect the processes of manufacture and to verify by actual check or otherwise the statements made in support of the claim for rebate;

(f) the manner in which and the authority before which and the time-limit within which the claim for rebate may, together with the proof of export of the articles, be filed.

35. (1) No rebate of duty shall be allowed under section 32 or under section 34,—

(a) in respect of any goods the market price of which is less than the amount of rebate due thereon;

(b) where the rebate due in respect of any goods (other than the goods which are exported by post) is less than five rupees.

Rebate of duty under sections 32 and 34 not to be allowed in certain cases.

(2) If the Central Government is satisfied that any class of goods is in short supply in India, or that after export of any class of goods, such goods are likely to be imported into India, or that it is necessary or expedient in the public interest so to do with respect to any class of goods (including goods on any class of vessels), it may, by notification in the Official Gazette, direct that on export of such class of goods, either generally to all destinations or to such destination or destinations, as may be specified therein, no rebate shall be granted under section 32 or, as the case may be, under section 34.

(3) In this section, the expression "goods" means excisable goods and includes the articles referred to in section 34.

36. Where any excisable goods or articles made therefrom are not exported within the time-limit prescribed under section 32 or, as the case may be, under section 34, or the proof of export of such goods or articles is not furnished within the time-limit prescribed under section 32 or, as the case may be, under section 34, the proper officer may, after giving a reasonable opportunity to the exporter of being heard in the matter, by order, disallow the whole or any part of the claim for such rebate under section 32 or under section 34.

Whole or part of claim for rebate of duty under sections 32 and 34 to be disallowed in certain cases.

CHAPTER V

DECLARATION AND LICENSING OF CERTAIN OPERATIONS

37. No person shall himself or by any other person on his behalf engage in the growing of tobacco or coffee upon any land except after making a declaration in respect of such land to the proper officer in such form, and containing such particulars, and in such manner, as may be prescribed.

Persons growing tobacco or coffee to make declaration

Certain
opera-
tions to
be sub-
ject to
licence.

38. No person shall himself or by any other person on his behalf engage in—

(a) the curing, production or manufacture of any excisable goods including the manufacture of articles specified in any notification issued under clause (a) of section 21, or

(b) the production or manufacture of such component parts or ingredients, or such containers of any excisable goods as may be specified by the Central Government, by notification in the Official Gazette, or

(c) the wholesale purchase or sale (whether on his own account or as a broker or commission agent) or the storage, otherwise than in a warehouse, of tobacco or coffee,

except under the authority and in accordance with the terms and conditions of a licence granted under section 39.

Grant
and re-
newal of
licences.

39. (1) Any person desiring to engage himself or by any other person on his behalf in any of the operations referred to in section 38, shall make an application for the necessary licence to the proper officer (hereafter in this Chapter referred to as the licensing officer), in such form and containing such particulars as may be prescribed.

(2) On receipt of an application under sub-section (1), the licensing officer, after holding such inquiry as he deems fit may grant a licence to the applicant for such period, subject to such conditions (including any condition as to execution of a bond), in such form and containing such particulars and on payment of such fees, as may be prescribed:

Provided that different fees may be prescribed for different classes of licences.

(3) A licence granted under this section may, on application by the licensee, be renewed by the licensing officer or such other officer as the Board may, by notification in the Official Gazette, specify in this behalf, for such period and on payment of such fees, as may be prescribed.

(4) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

Cancell-
ation and
suspension
of
licences.

40. (1) The licensing officer or, where the licensing officer is lower in rank than an Assistant Collector of Central Excise, the Assistant Collector of Central Excise to whom the licensing officer is subordinate, may, without prejudice to any other action that may be taken against the licensee under this Act, cancel a licence granted or renewed under section 39—

(a) if he is satisfied that any statement made in the application for grant or renewal of the licence is incorrect or false in material particulars or that the licensee has failed to comply with any of the conditions of the licence or has contravened any of the provisions of this Act or any rule, or

(b) if the licensee is convicted of an offence punishable under section 165A of the Indian Penal Code:

Provided that no licence shall be cancelled under clause (a) unless a reasonable opportunity has been given to the licensee to show cause why the licence should not be cancelled.

(2) Pending a decision whether a licence should be cancelled under sub-section (1), the licensing officer, or, where the licensing officer is lower in rank than an Assistant Collector of Central Excise, the Assistant Collector of Central Excise to whom the licensing officer is subordinate may, by order, suspend the licence for such period or periods not exceeding two months in the aggregate as he may think fit:

Provided that the Collector of Central Excise may, by order, extend the period of suspension ordered by the licensing officer or the Assistant Collector of Central Excise, as the case may be, by a further period or periods not exceeding one month in the aggregate as he may think fit.

41. If the Board is satisfied that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, exempt any class of persons or any class of excisable goods from the operation of all or any of the provisions of section 37 or section 38.

Power to exempt.

CHAPTER VI

WAREHOUSING

42. No excisable goods shall be deposited in a warehouse or, where such goods have been so deposited, be removed therefrom for home consumption or for export or to another warehouse or be otherwise dealt with except as provided by or under this Act.

Excisable goods not to be deposited in a warehouse or removed therefrom or otherwise dealt with except as provided by or under the Act.

43. If the Central Government is satisfied that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, specify the excisable goods which may, subject to such limitations and conditions, as may be specified therein,—

Power to regulate warehousing of excisable goods and removal of such goods from one warehouse to another.

(a) be deposited in a warehouse without payment of duty; or

(b) be removed from one warehouse to another without payment of duty.

44. No person shall himself or by any other person on his behalf establish a warehouse except under the authority and in accordance with the terms and conditions of a licence granted under section 45,

Licensing of warehouses.

Grant of
ware-
house
licences.

45. (1) Any person desiring to establish, himself or by any other person on his behalf, a warehouse shall make an application for the necessary licence to the proper officer (hereafter in this section and sections 46 and 59 referred to as the licensing officer), in such form and containing such particulars as may be prescribed.

(2) On receipt of an application under sub-section (1), the licensing officer may, after holding such inquiry as he deems fit, grant a licence having regard to the following factors, namely:—

(a) the suitability of the premises, where the warehouse is proposed to be established, for being used as a warehouse;

(b) the number of warehouses operating in the village, town or city where the warehouse is proposed to be established; and

(c) such other factors as may be prescribed.

(3) Every licence granted under this section shall be on payment of such fees as may be prescribed:

Provided that different fees may be prescribed for different classes of warehouses.

(4) Every licence granted under this section shall be for such period, subject to such conditions and in such form and shall contain such particulars, as may be prescribed.

(5) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

Renewal
of ware-
house
licences.

46. (1) A licence granted under section 45 may, on application by the licensee, be renewed by the licensing officer or such other officer as the Board may, by notification in the Official Gazette, specify in this behalf, for such period and on payment of such fees as may be prescribed.

(2) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

Ware-
housing
bond.

47. (1) Every licensee of a public or a private warehouse shall execute a bond in respect of the excisable goods deposited in his warehouse.

(2) Every owner of excisable goods desiring to deposit such goods in a public warehouse shall also execute a bond at the time of each such deposit:

Provided that the proper officer may permit such owner to execute a general bond for such deposits for any prescribed period.

Regula-
tion of
deposit
of excisa-
ble goods
in a
ware-
house.

48. (1) Subject to the provisions of sub-section (2), no excisable goods shall be deposited in a warehouse unless—

(a) the bond or bonds as required under section 47 has or have been executed, and

(b) such goods, except in such cases as may be prescribed, have been presented by the owner thereof to the proper officer and such officer has assessed them to duty and made an order permitting the deposit of such goods in the warehouse without payment of duty.

(2) The Board may, by notification in the Official Gazette, direct that such excisable goods, as may be specified therein, shall not be deposited in a warehouse after such period as may be so specified, from the date

of completion of curing or manufacture, as the case may be, and, where such date is not ascertainable, from such date as may be prescribed:

Provided that in specifying the period aforesaid, the Board shall have due regard to the nature of the excisable goods so specified.

49. Any warehoused goods may be left in the warehouse in which they were deposited or in any warehouse to which they might have been subsequently removed till the expiry of three years after the date on which they were first deposited in the warehouse:

Period for which warehoused goods may remain in a warehouse.

Provided that for any good and sufficient reason the aforesaid period of three years may be extended by such authority and for such further period or periods, as may be prescribed.

50. (1) The owner of warehoused goods may, subject to such conditions as may be prescribed, sort, separate, pack or re-pack such goods and make such alterations therein as may be necessary for their disposal (by sale or otherwise) or for their preservation.

Owner's right to deal with warehoused goods.

(2) After the goods have been so sorted, separated, packed, re-packed or subjected to any alteration as aforesaid, the proper officer may, on the request of the owner thereof, cause or permit any refuse or damaged goods remaining after such sorting, separation, packing, re-packing or alteration to be destroyed and remit the duty thereon.

51. (1) The Board may, by notification in the Official Gazette, direct that, in relation to such warehoused goods as may be specified therein, the owner thereof may conduct such manufacturing operations in the warehouse, as may be so specified, subject to such restrictions and conditions (including a condition as to the payment of the duty on the said warehoused goods and on the excisable goods, if any, produced as a result of any of the said manufacturing operations) as may be prescribed.

Manufacturing operations in relation to warehoused goods.

(2) The proper officer may remit the duty on the refuse or waste arising out of any operation referred to in sub-section (1) to such extent and in such manner as may be prescribed.

52. (1) Before any warehoused goods are removed from one warehouse to another, the consignor or the consignee of such goods shall execute a bond for the due arrival and re-warehousing thereof at the warehouse of destination, within such time as the proper officer directs and such bond shall not be discharged until—

Bond for removal of warehoused goods from one warehouse to another.

(a) such goods are produced before the Central Excise Officer-in-charge of the warehouse of destination and are duly warehoused therein; or

(b) such goods are otherwise accounted for to the satisfaction of the proper officer,

nor until the full duty due upon any deficiency in such goods not so accounted for has been paid:

Provided that the proper officer may permit such consignor or consignee to execute a general bond for the removal of any warehoused goods from one warehouse to another for any prescribed period and for

the due arrival and re-warehousing thereof at the warehouse of destination within such time as such officer directs.

(2) For the purposes of this section and section 53,—

(a) “consignor” means,—

(i) where the warehoused goods are to be removed from a public warehouse, the owner of such goods;

(ii) where the warehoused goods are to be removed from a private warehouse, the licensee of such warehouse;

(b) “consignee” means,—

(i) where the warehoused goods are to be removed to a public warehouse, the owner of such goods;

(ii) where the warehoused goods are to be removed to a private warehouse, the licensee of such warehouse.

Proof of
re-ware-
housing
to be
furnished.

53. (1) Where any warehoused goods are removed from one warehouse to another under section 52 by the consignor or consignee, the consignor shall furnish the proof of re-warehousing of the goods at the warehouse of destination to the Central Excise Officer-in-charge of the warehouse of removal in such manner and within such time, as may be prescribed.

(2) If the consignor fails to furnish the proof of re-warehousing required under sub-section (1), or intimation of such re-warehousing has not been received by the Central Excise Officer-in-charge of the warehouse of removal from the Central Excise Officer-in-charge of the warehouse of destination, the consignor shall, upon a written demand being made by the former officer, pay the duty leviable on such goods within ten days of the notice of demand, and if the duty is not so paid, then, without prejudice to any other action to which the consignor may be liable under this Act, the consignor shall not be permitted to make any further removals of any warehoused goods from one warehouse to another until the duty is paid or the proof is so furnished or the intimation is so received.

(3) Where such duty has been paid, it shall be refunded to the consignor either on his furnishing such proof to, or on receipt of such intimation by, the Central Excise Officer-in-charge of the warehouse of removal.

Removal
for home
consump-
tion, etc.,
of excis-
able goods
in transit
to a ware-
house.

54. The whole or part of any excisable goods—

(a) which are removed for deposit in a warehouse, or

(b) which have been permitted to be removed or are removed from one warehouse to another,

may with the permission of the proper officer, at any time before they have been deposited or, as the case may be, re-warehoused, be removed by the owner thereof, for home consumption or export or removal to any other warehouse and dealt with as if such goods have been removed from a warehouse:

Provided that where any such goods are held in containers and part only thereof is to be removed as aforesaid, that part shall consist of one or more complete containers.

55. (1) If, after any excisable goods are deposited in a warehouse,— Re-assessment.

(a) any alteration is made in the rate of duty leviable thereon, or in the tariff valuation (if any) applicable thereto, or

(b) such goods are sorted, separated or subjected to any other process which causes the goods or any part thereof to become liable to duty at a rate other than that at which they were assessed at the time of deposit in the warehouse,

such goods shall be re-assessed by the proper officer in accordance with the rate so altered or, as the case may be, the rate to which the goods become so liable.

(2) Where the rate of duty leviable on any excisable goods is determined by the use to which such goods are to be put after removal from the warehouse, they shall in the same manner as provided in sub-section (1), be re-assessed by the proper officer in accordance with the rate appropriate to such use, if such rate be different from the rate at which they were assessed when they were deposited in the warehouse.

56. (1) Every licensee of a warehouse shall—

(a) in respect of the excisable goods deposited in his warehouse be responsible for their reception therein and delivery therefrom, and for their safe custody while deposited therein, according to the quantity or weight reported by the Central Excise Officer who assessed duty on such goods, allowance being made for wastage and losses, if any, admissible under this Act,

(b) produce before the Central Excise Officer (who is entitled to have access to the warehouse), on a requisition made by such officer in this behalf, any excisable goods deposited therein which have not been lawfully authorised to be removed therefrom; and

(c) so stow every package or parcel of the excisable goods deposited therein that easy access may be had thereto.

Responsibility of warehouse licensee.

(2) No owner of excisable goods shall be entitled to claim from the Central Government or from any licensee of a public warehouse, compensation for any loss or damage occurring to the goods while they are being deposited in or removed from such warehouse unless it is proved that such loss or damage was occasioned by the wilful neglect of a Central Excise Officer or, as the case may be, of such licensee.

57. If, at any time after any excisable goods have been warehoused and before they are lawfully removed from the warehouse, such goods are found to be missing or deficient and it is not shown to the satisfaction of the proper officer that their absence or deficiency can be accounted for by natural waste or other legitimate cause, then, without prejudice to any other action to which the licensee of the warehouse may be liable under this Act, the proper officer may require such licensee to pay, within a period of fourteen days of the date on which the goods were Deficiency in warehoused goods.

found to be missing or deficient or such longer period as the proper officer may allow, the duty leviable on the missing goods or on the whole or any part of the deficiency, as such officer may deem fit and thereupon such licensee shall be bound to comply with such requisition.

Payment of duty, penalties, etc., in certain cases.

58. In any of the following cases, that is to say,—

(a) where any warehoused goods are deposited, removed or otherwise dealt with in contravention of section 42, or

(b) where any warehoused goods have not been removed from a warehouse on the expiration of the period allowed under section 49,

the proper officer may demand the full amount of duty due on the goods together with all penalties and other charges payable in respect thereof under this Act and the owner of such goods shall, within a period not exceeding fourteen days of such demand, or such longer period as may be allowed by the proper officer, pay such duty, penalties and other charges.

Power to cancel warehouse licences.

59. The licensing officer or, where the licensing officer is lower in rank than an Assistant Collector of Central Excise, the Assistant Collector of Central Excise to whom the licensing officer is subordinate, may cancel a licence granted under section 45 or renewed under section 46—

(a) if the licensee has contravened any of the provisions of this Act or any rule or has failed to comply with any of the conditions of the licence; or

(b) for any other good and sufficient reason:

Provided that no licence shall be cancelled under this section unless a reasonable opportunity has been given to the licensee to show cause why the licence should not be cancelled.

Warehoused goods to be removed in certain cases.

60. (1) Notwithstanding anything contained in this Act, where any goods have been deposited in a warehouse in pursuance of a notification issued under section 43 and, as a consequence of the cancellation or modification of such notification, such goods cease to be goods that may be deposited in a warehouse, the owner of the warehoused goods—

(i) shall not be entitled to abatement of duty or allowance in respect of such goods, for deficiency of quantity, strength or quality occurring after such cesser;

(ii) shall, within fourteen days of such cesser or such longer period as may be allowed in this behalf by the proper officer, remove such goods for home consumption or export, as the case may be; and

(iii) shall not be entitled to claim from the Central Government any compensation due to such cesser.

(2) Notwithstanding anything contained in this Act, where the licence for any warehouse is cancelled under section 59,—

(a) where such warehouse is a private warehouse, the licensee thereof shall not be entitled to abatement of duty or allowance in

respect of such goods, for deficiency of quantity, strength or quality occurring after cancellation of such licence; and

(b) where such warehouse is a public warehouse, the owner of the warehoused goods, or where such warehouse is a private warehouse, the licensee thereof, shall, within fourteen days of such cancellation or such longer period as may be allowed in this behalf by the proper officer, remove such goods to another warehouse, or remove them for home consumption or export, as the case may be; and

(c) the holder of such licence shall not be entitled to claim from the Central Government any compensation due to the cancellation of such licence.

52 of 1962.

61. (1) Any excisable goods, specified under section 43, may be deposited in a warehouse licensed or appointed under the Customs Act, 1962, and approved by the Collector of Central Excise for the purpose.

Excisable goods may be lodged in Customs warehouse.

(2) The provisions of this Act and the rules and regulations shall apply in relation to the excisable goods permitted to be deposited under sub-section (1), as they apply in relation to the excisable goods deposited in a warehouse licensed under this Act.

CHAPTER VII

SEARCH, SEIZURE AND ARREST

62. For the purpose of verifying any return submitted under this Act or any rule or of informing himself as to any particulars which are necessary for discharging his functions under this Act or any rule, any Central Excise Officer authorised by the Collector of Central Excise in this behalf—

Central Excise Officers to have access to place or premises for certain purposes.

(a) shall have free access at all reasonable times to any place or premises where any excisable goods are produced, cured, processed, deposited, used, stored or sold or where such component parts, materials, ingredients or containers in relation to any excisable goods, as may be prescribed, are made, processed, stored or dealt with in any other manner;

(b) may inspect any building, plant, machinery, stocks or accounts in the said place or premises;

(c) may require the owner or person-in-charge of the said place or premises to furnish such information relating to the production, disposal or stocks of any goods in the said place or premises as such officer may deem fit, and make a physical check of such stocks;

(d) may, at all reasonable times, check the records (whether prescribed by regulations under section 28 or not) relating to the goods received or stocked in, or removed from, or processed or manufactured in, the said place or premises, or the goods transferred within a factory to that part of the premises, if any, in which they are to be used for manufacture of any article (whether chargeable with duty or not) or for further manufacture.

Power to
search
place or
premises.

63. Where the proper officer has reason to believe that any offending goods or any documents or other things which in his opinion will be useful for, or relevant to, any proceeding under this Act, are secreted in any place or premises, he may search such place or premises for any such goods, documents or other things.

Power to
stop and
search
convey-
ance or
animal.

64. (1) Where the proper officer has reason to believe that any conveyance or animal has been, is being, or is about to be, used in the removal of any offending goods, he may require the person-in-charge of the conveyance or animal—

(a) to land, where such conveyance is an aircraft; or

(b) to stop, in any other case,

and may thereafter—

(i) rummage and search the conveyance; or

(ii) examine and search any goods in the conveyance or on the animal; or

(iii) search such person-in-charge for any document relating to such goods; or

(iv) break open the lock of any door or package for exercising the powers conferred by clauses (i) and (ii), if the keys are withheld.

(2) If any such person-in-charge fails to comply with such requisition, such officer may use all lawful means for forcing—

(a) to land, where such conveyance is an aircraft; or

(b) to stop, in any other case.

Power to
arrest.

65. Any Central Excise Officer duly empowered by the Central Government, by notification in the Official Gazette in this behalf, may arrest any person whom he has reason to believe to be liable to punishment under this Act.

Searches
and arrests
how to
be made.

66. All searches and arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898, relating respectively to searches and arrests made under that Code:

5 of 1898.

Provided that the provisions of the said Code, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of that Code shall have effect as if for the word "Magistrate", wherever it occurs, the words "Collector of Central Excise" were substituted.

How per-
sons ar-
rested are
to be
dealt
with.

67. Every person arrested under this Act shall be forwarded without delay to the nearest Central Excise Officer empowered by the Central Government, by notification in the Official Gazette, to send persons so arrested to a Magistrate, or, if there is no such Central Excise Officer within a reasonable distance, to the officer-in-charge of the nearest police station.

68. The officer-in-charge of the police station to whom any person is forwarded under section 67, shall either admit him to bail to appear before the Magistrate having jurisdiction, or in default of bail forward him in custody to such Magistrate.

Proce-
dure to be
followed
by officer-
in-charge
of police
station.

69. (1) When any person is forwarded under section 67 to the Central Excise Officer referred to in that section, such Officer shall proceed to inquire into the charge against him.

Inquiry
how to
be made
by Central
Excise
Officers
against
arrested
persons
forwarded
to them
under
section 67.

(2) For the purpose of sub-section (1), the Central Excise Officer may exercise the same powers and shall be subject to the same provisions as the officer-in-charge of a police station may exercise and is subject to under the Code of Criminal Procedure, 1898, when investigating a cognizable case:

5 of 1898.

Provided that--

(a) if the Central Excise Officer is of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall either admit him to bail to appear before a Magistrate having jurisdiction in the case, or forward him in custody to such Magistrate;

(b) if it appears to the Central Excise Officer that there is no sufficient evidence or reasonable ground of suspicion against the accused person, he shall release the accused person on his executing a bond, with or without sureties as the Central Excise Officer may direct, to appear, if and when so required, before the Magistrate having jurisdiction, and shall make a full report of all the particulars of the case to his official superior.

(3) All officers exercising any powers under section 67 or section 68 or this section shall so exercise their powers as to ensure that every person who is arrested and detained in custody is produced before the nearest Magistrate having jurisdiction within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate.

70. (1) Any Central Excise Officer duly empowered by the Central Government, by notification in the Official Gazette in this behalf, shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce any document or other thing in any inquiry which such officer is making for any of the purposes of this Act.

Power
to sum-
mon per-
sons to
give evi-
dence and
produce
documents
in in-
quiries
under the
Act.

Explanation.—In this sub-section, “inquiry” does not include an inquiry for the purpose of adjudging any confiscation or penalty under this Act whether the officer adjudging the confiscation or penalty makes the inquiry himself or through any other officer.

(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall, subject to the provisions of section 131, be bound to attend and to state the truth upon any subject respecting which they are summoned and produce such documents and other things as may be required:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908, shall be applicable to requisitions for attendance under this section:

5 of 1908.

Provided further that no such person shall be compelled under this section to answer any question or make any statement tending to incriminate himself.

(4) Every such inquiry shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code.

45 of 1860.

Seizure
of con-
fiscable
property.

71. (1) The proper officer may seize any confiscable property:

Provided that where in the opinion of such officer it is not practicable for him to take physical possession of such property or for any other good and sufficient reason, he thinks it necessary so to do, he may serve on the owner or person-in-charge of such property an order that such owner or person-in-charge shall not alienate, part with, remove or otherwise deal with such property, except with his previous permission.

(2) Where any confiscable property is seized under sub-section (1), and no notice in respect thereof is given under clause (a) of section 88 within six months of such seizure, such property shall be returned to the person from whose possession it was seized:

Provided that the Collector of Central Excise may, for any good and sufficient reason, extend the said period of six months by such further period or periods not exceeding six months in the aggregate, as he may think fit.

(3) Where, in respect of any confiscable property, an order referred to in the proviso to sub-section (1) has been served on the owner or the person-in-charge of such property, and no notice in respect thereof is given under clause (a) of section 88 within six months of the date of the service of such order, then, that order shall be deemed to have been vacated on the expiry of the said period:

Provided that the Collector of Central Excise may, for any good and sufficient reason, extend the said period of six months by such further period or periods not exceeding six months in the aggregate as he may think fit.

(4) The proper officer may also seize any document or other thing which in his opinion will be useful for, or relevant to, any proceeding under this Act or any rule.

(5) The person from whose custody any document is seized under sub-section (4), shall be entitled to make copies thereof or take extracts therefrom in the presence of a Central Excise Officer,

72. When any confiscable property or any document or other thing is seized or any person is arrested under this Act, the officer making such seizure or arrest shall, on demand of the owner or person-in-charge of the property or of the document or other thing so seized, or of the person so arrested, give him a statement in writing of the reason for such seizure or arrest.

When seizure or arrest is made, reason in writing to be given.

73. The Central Excise Officer empowered under sub-section (1) of section 70, or the proper officer exercising any powers under sub-section (4) of section 71, may retain in his custody any document or other thing produced before him or seized by him, which in his opinion will be useful for, or relevant to, any proceeding under this Act or any rule, for a period not exceeding twelve months or if, before the expiry of the said period of twelve months, any proceeding has been commenced—

Custody of documents, etc.

(a) under section 88, until the disposal of that proceeding (including the proceeding, if any, under section 94 or section 96 or section 97);

(b) under Chapter X, until the document or other thing has been produced before or filed in the court.

74. Notwithstanding anything contained in this Act, the proper officer may, during the pendency of any proceeding under this Act, sell, by public auction or otherwise—

Sale of confiscable property seized under the Act in certain cases.

(i) any confiscable property, other than land or building or an animal, seized under this Act if he is of opinion that such property is of a perishable or hazardous nature or such property is liable to deterioration;

(ii) any confiscable property, being an animal, seized under this Act if the owner or person-in-charge thereof fails to provide from day to day for its upkeep.

CHAPTER VIII

CONFISCATION AND IMPOSITION OF PENALTIES

75. The following excisable goods shall be liable to confiscation, namely:—

Confiscation of excisable goods.

(a) tobacco or coffee grown on land in respect of which prior declaration has not been made under section 37;

(b) any excisable goods produced, cured or manufactured or any tobacco or coffee purchased, sold or stored without a licence as required under section 38 or in contravention of any term or condition of such licence;

(c) any excisable goods which are removed or attempted to be removed from any place or premises referred to in section 16 or from any place approved under section 18 or are used or attempted to be used in any such place or premises in contravention of any provision of this Act or any rule;

(d) any excisable goods allowed to be removed under section 21 without payment of duty or on part payment of duty and in respect of the removal of which any condition has not been fulfilled;

(e) any excisable goods which are deposited in a warehouse or are removed therefrom or are dealt with therein in contravention of any provision of this Act or any rule;

(f) any excisable goods transported in contravention of the rules made under section 111;

(g) any excisable goods removed from one factory to another under section 112 or dealt with in contravention of any condition or restriction imposed under that section;

(h) any excisable goods, the duty on which is payable by affixing banderols or wrappers or labels on booklets or on boxes or other containers containing such goods, if found in possession of a dealer in such goods, not being banderolled, wrapped or labelled in the prescribed manner; or the banderol, wrapper or label of which is cut or torn; or the booklets or the boxes or other containers so banderolled, wrapped or labelled bear any mark or appearance indicating that they have been opened or tampered with;

(i) any excisable goods exempted from duty under section 29 subject to the fulfilment of any condition and such condition is not fulfilled.

Confisca-
tion of
land,
building,
etc., in
certain
cases.

76. Without prejudice to any other provision contained in this Chapter where any producer, curer or manufacturer of any excisable goods or any person being the owner of any excisable goods deposited in a warehouse,—

(a) engages in the production, curing, manufacture or deposit of such goods without a licence as required under this Act, or

(b) removes such goods in contravention of the provisions of this Act or any rule, or

(c) does not account for all such goods produced, cured, manufactured or deposited by him, or

(d) contravenes any of the provisions of this Act or any rule with intent to evade payment of duty on such goods,

then—

(i) any land, building, plant, machinery, material, conveyance, animal or any other thing used in connection with the production, curing, manufacture, deposit, removal or disposal of such goods, and

(ii) all excisable goods on such land or in such building, produced, cured or manufactured with such plant, machinery, material or other thing,

belonging to such producer, curer, manufacturer or owner, as the case may be, shall be liable to confiscation.

77. (1) Where any offending goods are found in any package, the package along with such goods and any other goods in that package shall also be liable to confiscation.

Confisca-
tion of
packages
and their
contents
and goods
used for
concealing
offending
goods.

(2) Any goods used for concealing the offending goods shall also be liable to confiscation.

78. (1) Any offending goods may be confiscated notwithstanding any change in their form.

Confisca-
tion of
offending
goods not-
withstand-
ing any
change in
form
thereof.

(2) Where the offending goods are mixed with any other goods in such manner that the offending goods cannot be separated from such other goods, the whole of the goods shall be liable to confiscation:

Provided that where the owner or the person-in-charge of such goods proves to the satisfaction of the officer adjudging the confiscation under section 87 that he had no knowledge or reason to believe that the goods included any offending goods, only such part of the goods, the value of which is equal to the value of the offending goods, shall be liable to confiscation.

79. (1) Where any confiscable property is sold by the owner or person-in-charge thereof in contravention of an order served on him under the proviso to sub-section (1) of section 71, the sale proceeds of such property shall also be liable to confiscation.

Confisca-
tion of
sale pro-
ceeds of
confiscable
property.

(2) Where any confiscable property is sold by the proper officer under section 74, the sale proceeds thereof shall also be liable to confiscation.

80. If the person-in-charge of any conveyance or animal falls to comply with the requisition made by the proper officer under sub-section (1) of section 64, such person-in-charge shall be liable to a penalty not exceeding five thousand rupees.

Penalty
for non-
compliance
with the
requisition
made
under sec-
tion 64.

81. Any person—

(a) who, in relation to any excisable goods, does or omits to do any act, which act or omission would render such goods liable to confiscation under section 75 or abets the doing or omission of such an act, or

Penalty
for acts
rendering
excisable
goods
liable to
confisca-
tion.

(b) who acquires possession of, or is in any way concerned in transporting, depositing, keeping, concealing, selling or purchasing, or in any other manner dealing with any excisable goods which he knows or has reason to believe are liable to confiscation under section 75,

shall be liable to a penalty not exceeding three times the value of such goods or five thousand rupees, whichever is greater.

Penalty
for open-
ing doors,
locks, etc.,
of a ware-
house in
certain
cases.

82. Any person who, being the licensee of a warehouse or the owner of warehoused goods, himself or by any person in his employ or with the connivance of any person--

(a) opens or attempts to open any of the doors of a warehouse which under any rule are required to be locked, or opens or attempts to open any of the locks of a warehouse or makes or obtains access into a warehouse, except in the presence of a Central Excise Officer acting in his duty as such, or

(b) does not open such doors or locks when required to do so by a Central Excise Officer entitled to have access to the warehouse or upon demand made by such officer, or

(c) neglects to stow the warehoused goods so that easy access may be had to every package or parcel thereof,

shall be liable to a penalty not exceeding five thousand rupees.

Penalty
for frau-
dulently
obtaining
set-off,
exemption,
etc., of
duty.

83. Any person who fraudulently obtains or attempts to obtain any set-off, exemption, remission, refund or rebate of duty or any part thereof under this Act, shall be liable to a penalty not exceeding three times the amount of duty involved or five thousand rupees, whichever is greater.

Penalty
for not
accounting
for ex-
cisable
goods.

84. Any person who in contravention of any provision of this Act or any rule fails to account for the excisable goods produced, cured, manufactured or owned by him, or deposited by him in a warehouse, or obtained by him for any purpose specially permitted by any provision of this Act or any rule shall for every such failure be liable to a penalty not exceeding three times the value of such goods or five thousand rupees, whichever is greater.

Penalty
for im-
proper
mainte-
nance of
accounts,
making
false
declara-
tion, etc.

85. Any person--

(a) who fails to maintain accounts or submit returns or furnish information or make a declaration when so required under any provision of this Act or any rule or regulation, or

(b) who makes a false or fraudulent entry in any of his accounts or returns or furnishes a false information, or makes a false declaration where such accounts or returns or information or declaration are or is required to be maintained or furnished or made under any provision of this Act or any rule or regulation, or

(c) who abets the commission of any of the acts referred to in clauses (a) and (b),

shall be liable for every such commission or, as the case may be, such abetment to a penalty not exceeding five thousand rupees.

Penalty
in other
cases.

86. Any person who contravenes any provision of this Act or any rule or abets any such contravention, or who fails to comply with any provision of this Act or any rule with which it was his duty to comply, shall, where no express penalty for such contravention or failure is elsewhere provided in this Act, be liable to a penalty, not exceeding five thousand rupees and the goods in respect of which the contravention or failure is established shall be liable to confiscation.

87. In every case under this Chapter in which any property is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged—

Adjudica-
tion of
confisca-
tions and
penalties.

(a) by a Collector of Central Excise, without limit;

(b) by such other Central Excise Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, subject to such limits as may be specified in that notification.

88. No order confiscating any property or imposing any penalty on any person, shall be made under this Chapter unless,—

Issue of
show-
cause
notice
before
confisca-
tion.

(i) where the order relates to confiscation of any property, the person-in-charge of such property and, where such person-in-charge is not the owner of such property, the owner thereof; or

(ii) where the order relates to the imposition of any penalty, the person on whom such penalty is to be imposed;

is given—

(a) a written notice stating the grounds on which it is proposed to confiscate such property or to impose such penalty; and

(b) a reasonable opportunity of making a representation in writing within such time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein and of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person or persons concerned, be oral.

89. (1) Whenever any property is confiscated under this Act, the officer adjudging such confiscation may give to the owner of such property an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Option
to pay
fine in
lieu of
confisca-
tion.

Provided that such fine shall not exceed the market price of the property confiscated on the date on which such confiscation is adjudged.

(2) For the removal of doubts, it is hereby declared that any fine in lieu of confiscation imposed under sub-section (1), shall be in addition to the duty and charges, if any, payable in respect of such property under this Act.

90. (1) When any property is confiscated under this Chapter, such property shall thereupon vest in the Central Government.

Property
on con-
fiscation
to vest
in Central
Govern-
ment.

(2) The officer adjudging the confiscation shall take and hold possession of the confiscated property.

91. Where confiscation of any property has been adjudged under section 87 and the option of paying a fine in lieu of such confiscation has not been exercised by the owner of such property under section 89, then—

Disposal
of con-
fiscated
property.

(a) if no appeal has been filed under section 94 against the order confiscating such property within the period prescribed therefor; or

(b) if such an appeal having been filed has been rejected;

such property shall be sold, destroyed or otherwise disposed of in such manner as the officer adjudging such confiscation may direct:

Provided that during the pendency of any such appeal, the appellate authority may, after giving the appellant a reasonable opportunity of being heard in the matter, direct the officer adjudging such confiscation to sell, destroy or otherwise dispose of such property in such manner as may be specified by that authority.

Shortage and up-keep charges in respect of property confiscated and re-deemed.

92. Where confiscation of any property has been adjudged under section 87 and the option of paying a fine in lieu of such confiscation has been exercised by the owner of such property under section 89, then, the officer adjudging such confiscation may require such owner to pay such maintenance, storage, upkeep or other charges for such period (not beyond the date on which the property is returned to the owner thereof) as such officer may direct and thereupon such owner shall be liable to pay such charges.

Confiscation or penalty not to affect other punishments.

93. No confiscation made or penalty imposed under this Chapter by a Central Excise Officer shall prevent the infliction of any punishment to which the person affected thereby is liable under any other provision of this Act or under any other law.

CHAPTER IX

APPEAL AND REVISION

Appeal.

94. (1) Any person aggrieved by any decision or order made under this Act (other than an order made under section 131) or any rule may, within three months from the date of the communication to him of such decision or order,—

(a) where the decision or order has been made by a Collector of Central Excise, appeal to the Board; and

(b) where the decision or order has been made by an officer of Central Excise lower in rank than a Collector of Central Excise, appeal to the Appellate Collector of Central Excise:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(2) The appellate authority may, after giving a reasonable opportunity to the appellant to be heard, if the appellant so desires, and making or causing to be made such further inquiry as may be necessary, make such order as it thinks fit—

(a) confirming, modifying or annulling the decision or order appealed against; or

(b) setting aside the decision or order appealed against and referring the case back to the Central Excise Officer who made such decision or order for disposal in such manner as it may direct

Provided that an order enhancing any penalty or fine in lieu of confiscation or an order confiscating any property of greater value shall not be made under this section unless the appellant has been given a reasonable opportunity of being heard in the matter:

Provided further that where the appellate authority is of opinion that any duty has not been levied or has been short-levied, no order levying or enhancing the duty shall be made under this section unless the person affected by such levy or enhancement is given a notice to show cause against the same within the time-limit specified in section 109.

(3) Every order made in appeal under this section shall, subject to any order that may be made by the Central Government under section 97, be final.

95. (1) Where a decision or order appealed against relates to any duty levied in respect of excisable goods which are not under the control of any Central Excise Officer or where such decision or order relates to any penalty imposed under this Act, any person desiring to appeal against such decision or order shall, pending the appeal, deposit with the proper officer the duty levied or the penalty imposed: Deposit, pending appeal, of duty levied or penalty imposed.

Provided that where in any particular case the appellate authority is of opinion that the deposit of the duty levied or penalty imposed will cause undue hardship to the appellant, it may dispense with such deposit either unconditionally or subject to such conditions as it may deem fit.

(2) If upon such appeal, it is decided that—

(a) no duty or penalty should have been levied or imposed; or

(b) the duty or penalty levied or imposed is in excess of that what should have been levied or imposed,

then, the proper officer shall refund to the appellant—

(i) in a case falling under clause (a), the whole of the duty or penalty levied or imposed, and

(ii) in a case falling under clause (b), the duty or penalty levied or imposed in excess.

96. (1) The Board may, of its own motion or on the application of any aggrieved person, call for and examine the record of any proceeding in which a Central Excise Officer has made any decision or order under this Act (not being an order made in appeal under section 94 or an order made under section 131) for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may, after making or causing to be made such inquiry as is necessary, make such order thereon as it thinks fit: Revision by Board.

Provided that no order enhancing any penalty or fine in lieu of confiscation or confiscating any property of greater value shall be made under this section unless the person affected by such enhancement or confiscation has been given a reasonable opportunity of being heard in the matter:

Provided further that where the Board is of opinion that any duty has not been levied or has been short-levied, no order levying or enhancing the duty shall be made under this section unless the person affected by such levy or enhancement is given a notice to show cause against the same within the time-limit specified in section 109.

(2) Except in the case referred to in the second proviso to sub-section (1), no decision or order made by a Central Excise Officer shall be revised by the Board whether of its own motion or on the application of any aggrieved person after the expiry of two years from the date of the said decision or order.

Revision
by Central
Govern-
ment.

97. (1) The Central Government may, on the application of any person aggrieved by—

(a) any order made under section 94, or

(b) any order made under section 96, otherwise than on the application of any aggrieved person, or

(c) any order made on the application of any aggrieved person under section 96 where the order is of the nature referred to in the first proviso to sub-section (1) of that section,

after making or causing to be made such inquiry as is necessary, annul or modify such order.

(2) An application under sub-section (1) shall be made within six months from the date of the communication to the applicant of the order against which the application is made:

Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of six months, allow it to be presented within a further period of six months.

(3) The Central Government may of its own motion, after making or causing to be made such inquiry as is necessary, annul or modify any order made under section 94 or section 96.

(4) No order enhancing any penalty or fine in lieu of confiscation or confiscating any property of greater value shall be made under this section—

(a) in any case in which an order made under section 94 or section 96 has resulted in the enhancement of any penalty or fine in lieu of confiscation or has resulted in the confiscation of property of greater value; and

(b) in any other case,—

(i) after the expiry of two years from the date of the order sought to be modified; and

(ii) unless the person affected thereby has been given a reasonable opportunity of being heard in the matter.

(5) Where the Central Government is of opinion that any duty has not been levied or has been short-levied, no order levying or enhancing the duty shall be made under this section, unless the person affected by such levy or enhancement is given a notice to show cause against the same within the time-limit specified in section 109.

CHAPTER X

OFFENCES AND PROSECUTIONS

98. Without prejudice to any action that may be taken under this Act, if any person—

Offences
and
penalties

(a) makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document in connection with anything done under this Act or any rule or regulation, knowing or having reason to believe that such declaration, statement or document is false in any material particular, or

(b) intentionally obstructs any Central Excise Officer in the exercise of any power conferred by this Act or any rule, or

(c) is, in relation to any excisable goods, in any way knowingly concerned in any evasion of any duty chargeable thereon, or

(d) acquires possession of, or is in any way concerned in manufacturing, transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner dealing with any excisable goods which he knows or has reason to believe are liable to confiscation under this Act,

he shall be punishable,—

(i) in a case referred to in clause (a) or clause (b), with imprisonment for a term which may extend to six months, or with fine, or with both; and

(ii) in a case referred to in clause (c) or clause (d), with imprisonment for a term which may extend to two years, or with fine, or with both.

99. Any owner or occupier of any land, or any agent of such owner or occupier in charge of the management of that land, who wilfully connives at any offence against any provision of this Act or any rule shall, for every such offence, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Punish-
ment for
connivance
at offences.

100. (1) Any Central Excise Officer or other officer exercising powers under this Act or any rule who—

Vexatious
search,
seizure,
etc., by
Central
Excise
Officer.

(a) without reasonable ground of suspicion searches or causes to be searched any place, premises or conveyance; or

(b) vexatiously or unnecessarily detains, searches or arrests any person; or

(c) vexatiously or unnecessarily seizes the property of any person on pretence of seizing or searching for any goods liable to confiscation under this Act; or

(d) vexatiously or unnecessarily attaches or sells any property under this Act; or

(e) commits, as such officer, any other act to the injury of any person, without having reason to believe that such act is required for the execution of his duty,

shall, for every such offence, be punishable with fine which may extend to two thousand rupees.

(2) Any person wilfully and maliciously giving false information and so causing an arrest or search to be made under this Act shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

Failure of
Central
Excise
Officer
in duty.

101. (1) Any Central Excise Officer who ceases or refuses to perform or withdraws himself from the duties of his office, shall, unless he has obtained the express written permission of the Collector of Central Excise or has given to his superior officer two months' notice in writing of his intention so to do or has other lawful excuse, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to three months' pay, or with both.

(2) Any Central Excise Officer who—

- (a) enters into, or acquiesces in, any agreement to do, or
- (b) abstains from doing, or
- (c) permits, conceals or connives at,

any act or thing, whereby any duty is or may be evaded, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

(3) If any Central Excise Officer discloses any particulars learnt by him in his official capacity in respect of any goods, land, building, plant, machinery, material, conveyance, animal, or any other thing, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that nothing in this sub-section shall apply to any disclosure of such particulars by any Central Excise Officer—

- (a) in the discharge in good faith of his duties as such officer;
- (b) in compliance with any requisition made by any officer or authority under any law for the time being in force;
- (c) to the Comptroller and Auditor-General of India for the purpose of enabling the Comptroller and Auditor-General of India to discharge his functions;
- (d) to any other officer or authority under this Act or any other law for the time being in force, if the Central Excise Officer is satisfied that the disclosure of such particulars would be relevant to, or necessary in connection with, any proceeding or action which may

be or has been instituted or taken under this Act or such other law;
or

(e) for statistical purposes.

102. (1) Where an offence under this Chapter has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any such punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under this Chapter has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

103. (1) No court shall take cognizance of any offence under section 98 or section 99 except with the previous sanction of the Collector of Central Excise. Cognizance of offences.

(2) No court shall take cognizance of any offence under section 100 or section 101,—

(a) where the offence is alleged to have been committed by a Central Excise Officer not lower in rank than an Assistant Collector of Central Excise, except with the previous sanction of the Central Government; and

(b) where the offence is alleged to have been committed by a Central Excise Officer lower in rank than an Assistant Collector of Central Excise or by a person other than a Central Excise Officer, except with the previous sanction of the Collector of Central Excise.

104. Where any person is prosecuted for contravening any provision of this Act or any rule, which prohibits him from doing an act without a licence, an authorisation or a permit, the burden of proving that he had the requisite licence, authorisation or permit, as the case may be, shall be on him. Burden of proof in certain cases.

Presump-
tion as to
documents
in certain
cases.

105. Where any document is produced by any person under this Act or has been seized under this Act from the custody or control of any person and such document is tendered by the prosecution in evidence against him, the court—

(a) shall, unless the contrary is proved by any such person, presume—

(i) the truth of the contents of such documents;

(ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) shall admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

Power of
courts to
order for-
feiture.

106. Any court trying an offence under this Chapter may order the forfeiture to Government of any excisable goods in respect of which the court is satisfied that an offence under this Chapter has been committed, and may also order the forfeiture of any receptacles, packages or coverings in which such goods are contained and the animals or the vehicles, vessels or other conveyances used in carrying such goods, and any implements or machinery used in the manufacture of such goods.

Courts to
notify
before
disposal of
dutiable
or offend-
ing goods.

107. Where any dutiable goods or offending goods are produced before any court or are in its custody in connection with any offence committed under any other law, the court shall, before passing any order regarding the disposal of such goods, give notice in writing to a Gazetted Officer of Central Excise having jurisdiction, about the production or custody of such goods and after hearing him and the person who produced such goods or from whom the custody of such goods was taken, pass an order if it deems fit for the transfer of the goods to such officer to be proceeded with according to this Act.

CHAPTER XI

MISCELLANEOUS

Claim for
refund of
duty, fees
or charges.

108. (1) Any person claiming refund of any duty, fees or charges paid under this Act or any rule, may make an application for refund of such duty, fees or charges to the proper officer before the expiry of one year from the date of payment of the duty, fees or charges, as the case may be:

Provided that the aforesaid period of one year shall not apply where any duty has been paid under protest:

Provided further that the Central Government may permit an application for such refund to be made after the expiration of the aforesaid period of one year if it is satisfied that the applicant had sufficient cause for not making it within that period or that undue hardship will otherwise be caused to the applicant.

Explanation.—Where any duty is paid provisionally under section 22, the period of one year shall be computed from the date of adjustment of the duty after the final assessment thereof.

(2) If on receipt of such application the proper officer is satisfied that the whole or any part of the duty, fees or charges paid by the applicant should be refunded to him, he may make an order accordingly.

(3) Where, as a result of any order made in appeal or other proceeding under this Act, the refund of any duty, fees or charges become due to any person, the proper officer shall, notwithstanding anything contained in sub-section (1), refund the amount to such person without his having to make any claim in that behalf.

109. (1) Where any duty, fees or charges leviable or levied under this Act or any rule has or have not been levied or has or have been short-levied or erroneously refunded owing to—

Notice
for
payment of
duty,
fees or
charges.

(a) misconception of this Act or any rule, notification or order made or issued thereunder or inadvertence or error on the part of any Central Excise Officer; or

(b) collusion or wilful mis-statement or suppression of facts by any licensee or the agent or employee of such licensee; or

(c) any other reason,

the proper officer may,—

(i) in a case referred to in clause (a), within one year; and

(ii) in a case referred to in clause (b) or clause (c), within five years,

from the relevant date, serve a notice on the person from whom such duty, fees or charges is or are recoverable requiring him to show cause to the Assistant Collector of Central Excise why he should not pay the amount specified in the notice.

(2) The Assistant Collector of Central Excise, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), shall determine the amount of duty, fees or charges due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined within thirty days from the date on which he is required to pay such amount or within such extended period as the Collector of Central Excise may, in any particular case, allow.

(3) For the purposes of sub-section (1), the expression “relevant date” means,—

(a) in a case where duty is not levied, the date on which the Central Excise Officer makes an order for the removal of the goods or, where the goods have been removed without such an order, the date of detection of such removal;

(b) in a case where duty is provisionally assessed under section 22, the date of adjustment of duty after the final assessment thereof;

(c) in a case where duty has been erroneously refunded, the date of such refund;

(d) in a case where the appellate authority referred to in section 94 has referred any case back to the Central Excise Officer under clause (b) of sub-section (2) of that section, the date on which the order for such reference was passed by the appellate authority;

(e) in any other case, the date of payment of the duty, fees or charges.

Recovery
of sums
due to
Govern-
ment.

110. (1) Where any duty, penalty, fees or charges payable by a person under this Act or any rule is or are not paid, the proper officer—

(a) may deduct, or require any other Central Excise Officer to deduct, the amount so payable from any money owing to such person which may be under the control of the proper officer or, as the case may be, such other Central Excise Officer; or

(b) may recover, or require any other Central Excise Officer to recover, the amount so payable by attachment and sale of the excisable goods belonging to such person; or

(c) may, in accordance with such rules as may be made in this behalf, attach and subject to the provisions of section 118 sell—

(i) any plant, machinery, material, goods (whether excisable or not), conveyance, animal or any other thing used in connection with the manufacture, storage or disposal of the excisable goods in respect of which such duty, penalty, fees or charges is or are payable and which may be in the possession or control of such person (but not belonging to any other person),

(ii) the goods (whether excisable or not) or preparations made, produced or manufactured with such plant, machinery or material which may be in the possession or control of such person (but not belonging to any other person).

(2) If the amount so payable is not recovered in the manner prescribed under sub-section (1), the proper officer may forward to the Tax Recovery Officer a certificate under his signature specifying the amount due from the person liable to pay the same and the Tax Recovery Officer, on receipt of such certificate, shall proceed to recover from such person the amount specified therein by one or more of the modes mentioned below in accordance with such rules as may be made in this behalf—

(a) attachment and sale of movable property of such person;

(b) attachment and sale of immovable property of such person;

(c) appointing a receiver for the management of the movable and immovable property of such person.

(3) Without prejudice to the provisions contained in sub-section (2), if the amount so payable is not recovered in the manner prescribed under sub-section (1), the proper officer may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Collector of the district in which such person resides or conducts his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified therein as if it were an arrear of land revenue.

(4) Where the terms of any bond or other instrument executed under this Act provide that any amount due under such bond or other instrument may be recovered in the manner laid down in clause (a) or clause (b) of sub-section (1), or in sub-section (2), or in sub-section (3) the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of clause (a) or clause (b) of sub-section (1) or, as the case may be, of sub-section (2) or of sub-section (3).

111. The Central Government may, by rules, regulate the transport of any excisable goods or class of such goods whether by land, water or air so far as such regulation is necessary for the levy and collection of duty on such goods or class of such goods under this Act.

Regulation of transport of excisable goods.

112. The Central Government may, if it considers necessary or expedient in the public interest so to do, by notification in the Official Gazette, declare any area comprising more than one factory manufacturing one or more of such excisable goods as may be specified in the notification, to be a Central Excise Area, and, in any area so declared, it may permit the said excisable goods to be removed from one factory to another without payment of duty for further manufacture or processing thereof subject to such conditions and restrictions (including the requirement of a licence and the fees, if any, payable therefor), as regards possession, storage, sale or transport of the said excisable goods within the said area, as may be prescribed.

Power to define Central Excise Area.

113. (1) Subject to such rules as may be made in this behalf, a Central Excise Officer may, at any time, in the presence of the owner or the person-in-charge of any goods, take samples thereof,—

Power to take samples.

(a) which he is empowered by this Act or the rules to examine; or

(b) which are on premises where goods chargeable with duty are manufactured, prepared or subjected to any process; or

(c) which, being excisable goods, are held by any person as stock for his business, or in a warehouse, or as materials for manufacture or processing.

(2) After the purpose for which the sample was taken, is carried out, such sample shall, if practicable, be restored to the owner or person-in-charge thereof, but if the owner or person-in-charge fails to take delivery of the sample within three months of the date on which it was taken, it may be disposed of in such manner as the Collector of Central Excise may direct.

(3) Where it is not practicable to restore the sample to the owner or person-in-charge under sub-section (2), the market price thereof shall be paid to such owner or person-in-charge.

(4) Where such owner or person-in-charge is not satisfied with the result of examination of any sample taken under this section, he shall be entitled to get the sample re-examined by such authority and on payment of such fees as may be prescribed.

(5) No duty shall be chargeable on any sample of goods taken under this section which is consumed or destroyed during the course of test or examination thereof.

114. All operations necessary for making any goods available for examination by the proper officer or for facilitating such examination shall be performed by, or at the expense of, the owner or, as the case may be, the person-in-charge of the goods.

Owner or person-in-charge to perform operations incidental to examination of goods.

Liability
of
principal
and
agent.

115. (1) Where this Act or any rule requires anything to be done by the owner of any excisable goods or a licensee it may be done on his behalf by his agent.

(2) Any such thing done by an agent of the owner of any excisable goods or a licensee shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner or licensee so that in any proceeding under this Act, the owner or licensee, as the case may be, shall also be liable as if he himself had done the thing.

(3) Where any person is expressly or impliedly authorised by the owner of any excisable goods or a licensee to be his agent for any or all of the purposes of this Act or any rule, such person shall, without prejudice to the liability of the owner or licensee, be deemed to be the owner or licensee, as the case may be, for such purpose or purposes.

Liability
of agent
appointed
by the
person-in-
charge of
convey-
ance or
animal.

116. (1) Where this Act or any rule requires anything to be done by the person-in-charge of a conveyance or an animal, it may be done on his behalf by his agent.

(2) An agent appointed by the person-in-charge of a conveyance or an animal and any person who represents himself to any Central Excise Officer as an agent of any such person-in-charge, and is accepted as such by that officer, shall be liable for fulfilment in respect of the matter in question of all obligations imposed on such person-in-charge by this Act or any rule and to penalties and confiscations which may be incurred in respect of that matter.

Amend-
ment of
documents.

117. The proper officer may, in his discretion, and upon payment of such fees as may be prescribed, authorise any document, after it has been presented to him, to be amended or supplemented if he is satisfied that such document is incorrect or incomplete and there is no fraudulent intention:

Provided that except in cases to which the provisions of section 15 or section 22 or section 55 apply, no amendment in the application or transport document or certificate for removal of any excisable goods from the place of production, manufacture or storage, shall be authorised to be amended after such goods have been removed for home consumption, or deposited in a warehouse, or exported, otherwise than on the basis of documentary evidence which is proved to the satisfaction of the proper officer to have been in existence at the time such goods were removed, deposited or exported, as the case may be.

Procedure
for sale
of goods
and appli-
cation of
sale-
proceeds.

118. (1) Where any goods (including plant and machinery), not being seized or confiscated goods, are to be sold under any provision of this Act, they shall, after notice to the owner thereof, be sold by public auction or by tender or with the consent of the owner in any other manner.

(2) The proceeds of any sale made under sub-section (1) shall be applied—

(a) firstly to the payment of the expenses of the sale;

(b) next to the payment of the freight and other charges, if any, payable in respect of the goods sold to the carrier, if notice of such

freight or other charges has been given to the person having custody of the goods;

(c) next to the payment of the duty, if any, on the goods sold;

(d) next to the payment of the charges in respect of the goods sold due to the person having custody of the goods;

(e) next to the payment of any amount due from the owner of the goods to the Central Government under this Act or any rule; and the balance, if any, shall be paid to the owner of the goods.

119. In any case where this Act does not expressly require the execution of a bond, the Board may, by notification in the Official Gazette, require such class of persons, as may be specified in the notification, to furnish a bond with security or surety for the due observance of any of the provisions of this Act or any rule.

Power to require certain class of persons to furnish

120. (1) Any bond required to be furnished under this Act—

bond. Form and conditions of bonds.

(a) shall be in such form as may be prescribed, and if no form has been prescribed in such other form as may be specified by the Board by notification in the Official Gazette;

(b) shall be in such amount (not exceeding the duty due on the excisable goods) and with such security or surety or sureties as the proper officer may think fit;

(c) may be a continuing bond which shall remain binding notwithstanding any renewal or variation of the licence granted under this Act and, in every such case, the liability of the surety or sureties shall be co-extensive with that of the obligor or obligors and the liability of such surety or sureties shall not be discharged if such renewal or variation in the licence is with the knowledge of such surety or sureties; and

(d) may, for any good and sufficient reason, be cancelled at any time by the proper officer.

(2) In the event of death or insolvency of the surety or sureties or where the amount of the bond is inadequate, the proper officer may demand a fresh bond and may, if the security furnished for the bond is inadequate, demand additional security.

(3) The proper officer may permit any person or class of persons to execute one bond in such form, in such amount and with such security or surety or sureties as such officer may think fit, in lieu of any two or more bonds which such person or class of persons is required to execute under any provision of this Act or any rule.

121. Every person manufacturing any excisable goods to which the provisions of section 17 apply and every licensee of a warehouse in which such excisable goods are deposited, shall provide and maintain for the use of the Central Excise Officers in attendance at the factory in which such excisable goods are manufactured or, as the case may be, at the warehouse in which such excisable goods are deposited, such office accommodation (including furniture), as may be prescribed, within the factory or warehouse premises, and he shall, if so required by the Collector of Central Excise, provide suitable lodging conveniently situated to the factory or warehouse premises, as the case may be, at a rent not exceeding ten per cent. of the pay of each such officer so provided with the lodging:

Provision of accommodation at factory or warehouse.

Provided that where the limit of rent specified above for such lodging falls short of the rent prevailing in the area, the rent payable may be increased by an amount not exceeding twenty rupees in each case.

Delegation
of powers.

122. The Central Government may, by notification in the Official Gazette, direct that subject to such conditions, if any, as may be specified in the notification,—

(a) any power exercisable by the Board under this Act (other than the power under section 41 or section 48 or section 51) shall be exercisable also by a Collector of Central Excise empowered in this behalf by the Central Government;

(b) any power exercisable by a Collector of Central Excise under this Act shall be exercisable also by a Deputy Collector of Central Excise or an Assistant Collector of Central Excise empowered in this behalf by the Central Government;

(c) any power exercisable by an Assistant Collector of Central Excise under this Act shall be exercisable also by a Gazetted Central Excise Officer (lower in rank than the Assistant Collector of Central Excise) empowered in this behalf by the Board.

Officers
required
to assist
Central
Excise
Officers.

123. All officers of Police and Customs and all officers of Government engaged in the collection of land revenue, and all village officers are hereby empowered and required to assist the Central Excise Officers in the execution of this Act and the rules.

Owners
or occu-
piers of
land to
report
manu-
facture of
contra-
band ex-
cisable
goods.

124. Every owner or occupier of any land, and the agent of any such owner or occupier, in charge of the management of that land, if contraband excisable goods are manufactured thereon, shall, in the absence of reasonable excuse, be bound to give notice of such manufacture to a Magistrate, or to an officer of the Central Excise, Customs, Police or Land Revenue Department, immediately the fact comes to his knowledge.

Protection
of action
taken
under the
Act.

125. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of the Central Government or a State Government for anything which is done, or intended to be done, in good faith, in pursuance of this Act or any rule.

(2) No proceeding other than a suit shall be commenced against the Central Government or any officer of the Central Government or a State Government for anything purporting to be done in pursuance of this Act or any rule without giving the Central Government or such officer a month's previous notice in writing of the intended proceeding and of the cause thereof, or after the expiration of three months from the accrual of such cause.

Powers of
adjudicat-
ing officer
and appel-
late and
revising
authorities

126. (1) Every officer or authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses;

- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

(2) Every officer or authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898.

5 of 1898.

(3) Every officer or authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have the power to make such orders of an interim nature as such officer or authority may think fit and may also, for sufficient cause, order the stay of operation of any decision or order.

127. (1) Clerical or arithmetical mistakes in any decision or order made by the Central Government, the Board or any Central Excise Officer under this Act or any rule or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Government, the Board or such Central Excise Officer or his successor-in-office, as the case may be.

Correction of clerical mistakes and errors.

(2) Every correction of any mistake or error under sub-section (1), shall be intimated, as soon as may be, by the authority or officer making such correction to the person affected thereby.

128. Any decision or order made or any summons or notice issued under this Act, shall be served—

Service of decision, order, etc.

(a) by tendering the decision, order, summons or notice, or sending it by registered post, to the person for whom it is intended; or

(b) if the decision, order, summons or notice cannot be served in the manner provided in clause (a), by affixing a copy thereof to some conspicuous part of the factory or warehouse or other place of business or usual place of residence of the person for whom such decision, order, summons or notice, as the case may be, is intended.

129. (1) All officers and persons employed in the execution of this Act and the rules shall observe and follow the orders, instructions and directions of the Board.

Instruction to subordinate authority, etc.

(2) Every Central Excise Officer employed in the execution of this Act shall also observe and follow such instructions as may be issued to him for his guidance by the Collector of Central Excise within whose jurisdiction he performs his functions.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no orders, instructions or directions shall be given so as to interfere with the discretion of the officer adjudging any confiscation or penalty under section 87 or of the Appellate Collector of Central Excise hearing any appeals under section 94.

Construc-
tion of
references
to laws
not in
force in
Jammu
and
Kashmir.

130. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

Appear-
ance by
authorised
agent.

131. (1) Any person who is entitled or required to attend before a Central Excise Officer in connection with any proceeding under this Act or before any officer or authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act, except when required to attend personally, for examination or to give evidence, or to produce a document or any other thing, may, subject to the other provisions of this section, attend by an authorised agent.

(2) Every such agent shall be authorised in writing by such person to appear on his behalf.

(3) No person—

(a) who has been dismissed or removed from Government service after the first day of April, 1938; or

(b) who has been convicted of an offence connected with any proceeding under this Act; or

(c) who has become an insolvent,

shall be qualified to appear as an authorised agent under sub-section (1), for all times in the case of a person referred to in clause (a), for such time as the Collector of Central Excise may, by order, determine in the case of a person referred to in clause (b), and for the period during which the insolvency continues in the case of a person referred to in clause (c).

(4) If an authorised agent is found guilty of misconduct in his professional capacity as such agent, the Collector of Central Excise or the Board may, by order, direct that such agent shall thenceforward be disqualified to appear as an authorised agent under this Act.

(5) Any order under sub-section (3) or sub-section (4) shall be subject to the following conditions, namely:—

(a) no such order shall be made in respect of any authorised agent unless he has been given a reasonable opportunity of being heard in the matter;

(b) any authorised agent against whom such order is made, may, within one month of the making of the order, appeal to the Board where the order is made by the Collector of Central Excise, and to the Central Government where the order is made by the Board, to have the order cancelled; and

(c) no such order shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

132. (1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act. General power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time at which and the manner (including affixation of banderols, wrappers or labels) in which the duty or duties leviable on any excisable goods shall be paid;

(b) the allowance for changes in bulk of, or evaporation loss in, excisable goods for determining liability for the payment of duty thereon, of any person who produces, cures or manufactures such goods or who deposits such goods in a warehouse;

(c) the determination of the date or dates for the purposes of application of rate of duty or tariff valuation under clause (c) of section 15;

(d) the conditions subject to which excisable goods may be deposited without payment of duty in a place, other than a warehouse, approved by the Collector of Central Excise under section 18;

(e) the extent to which, the conditions and limitations subject to which, the time at which and the manner in which, credit of duty shall be allowed and set-off thereof shall be made under section 24;

(f) the conditions subject to which, and the procedure in accordance with which, the proper officer may permit the removal of samples of excisable goods under section 25;

(g) the declaration required under section 37, the form thereof, the manner in which it shall be made, and the particulars it shall contain;

(h) the form of application for licence under section 39 or section 45, the form of licence to be granted under section 39 or section 45 or renewed under section 39 or section 46 and the particulars which such application and licence shall contain;

(i) the conditions and restrictions regarding possession, storage, sale or transport of excisable goods in any area declared to be a Central Excise Area under section 112;

(j) the regulation of removal of excisable goods from the place where they are produced, cured, manufactured or stored or subjected to any process of production, curing or manufacture and their transport to or from the premises of a licensed person, or a warehouse, or to a market;

(k) the regulation of the packing of excisable goods, including markings on such goods and the containers thereof;

(l) the fees to be levied in respect of—

(i) the removal of excisable goods from a factory or warehouse under sub-section (2) of section 20;

(ii) the licences granted or renewed under section 39 or section 45 or section 46 or section 112;

(iii) the re-examination of samples under section 113;

(iv) the amendments of documents under section 117; and

(v) the furnishing of duplicates of documents;

(m) any other matter which is to be, or may be, prescribed.

General power to make regulations.

133. (1) The Board may make regulations consistent with this Act and the rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the form of application for removal of excisable goods under section 17;

(b) the form of, and the details to be included in, the accounts and returns required to be maintained and submitted under section 28.

Publication of rules and regulations and laying before Parliament of rules, notifications and orders.

134. (1) All rules and regulations made under this Act, shall be published in the Official Gazette.

(2) Every rule made under this Act and every notification issued under sections 9, 11, 12, 13, 17, 21, 24, 29, 31, 32, 34, 35, 41, 43, 48, 51, 65, 67, 70, 112, 119, and 120, and under Items Nos. 1.5 and III.2 of the First Schedule and every order made under section 29, shall be laid, as soon as may be after it is made or issued before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or notification or order, or both Houses agree that the rule or order should not be made or the notification should not be issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

Repeal of Act I of 1944 in so far as it relates to excisable goods other than salt and savings.

135. (1) The Central Excises and Salt Act, 1944, in so far as it relates to excisable goods other than salt, is hereby repealed, that is to say, the said Act shall be amended in the manner specified in the Second Schedule.

1 of 1944.

(2) Notwithstanding the repeal of the Central Excises and Salt Act, 1944, in so far as it relates to excisable goods other than salt, under sub-section (1)—

1 of 1944.

(a) anything done or any action taken or purported to have been done or taken (including any rule, notification, order or notice made

or issued, or any appointment or declaration made, or any licence, permission or exemption granted, or any assessment made, or any confiscation adjudged, or any duty, fees or charges levied, or any penalty or fine imposed, or any forfeiture, cancellation or discharge of any bond ordered) under the said Act shall, in so far as it relates to excisable goods other than salt and is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any document relating to excisable goods other than salt and referring to the said Act shall be construed as referring to this Act or to the corresponding provision of this Act.

(3) This Act shall apply to all excisable goods other than salt which are subject to Central duty of excise at the commencement of this Act notwithstanding that such goods were produced, cured, manufactured, stored or otherwise dealt with before such commencement.

(4) Where, in relation to any excisable goods other than salt, the period prescribed for any application, appeal, revision or other proceeding under the said Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal or revision to be made, or a proceeding to be instituted, under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority.

(5) The provisions of section 50 or, as the case may be, of section 51, shall apply to all excisable goods other than salt warehoused before the commencement of this Act as if the operations permissible under those sections were carried out after such commencement.

(6) Any duty, penalty, fee or charge payable in respect of any excisable goods other than salt under the said Act may be recovered in the manner provided under this Act but without prejudice to any action already taken for the recovery of such duty, penalty, fee or charge under the said Act.

(7) The mention of particular matters in sub-sections (3), (4), (5) and (6) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals.

10 of 1897.

136. (1) If any difficulty arises in giving effect to the provisions of **Power to** this Act, particularly in relation to transition from the enactment repealed **remove** by this Act to the provisions of this Act, the Central Government may, **diff-** by general or special order published in the Official Gazette, make such **culties.** provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in

session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

THE FIRST SCHEDULE

(See section 7)

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
I. FOOD		
I.1.	SUGAR, PRODUCED IN A FACTORY ORDINARILY USING POWER IN THE COURSE OF PRODUCTION OF SUGAR—	
	‘Sugar’ means any form of sugar in which the sucrose content, if expressed as a percentage of the material dried to constant weight at one hundred and five degrees of Centigrade thermometer would be more than ninety.	
(1)	Sugar other than Khandsari or Palmyra	Nineteen per cent. <i>ad valorem</i> .
(2)	Khandsari sugar— that is to say, sugar in the manufacture of which neither a vacuum pan nor a vacuum evaporator is employed.	Ten per cent. <i>ad valorem</i> .
(3)	Palmyra sugar— that is to say, sugar manufactured from jaggery obtained by boiling the juice of the “palmyra palm”.	Nil.
I.2.	CONFECTIONERY AND CHOCOLATES IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER, NAMELY:—	Eighty paise per kilogram.
(1)	Boiled sweets, toffees, caramels, candies, nuts (including almonds) and fruit kernels coated with sweetening agent, and chewing gums.	
(2)	Chocolates in bulk or in the form of slabs, tablets, bars, pastilles or croquettes, whether or not containing nuts, fruit kernels or fruits.	
I.3.	PREPARED OR PRESERVED FOODS PUT UP IN UNIT CONTAINERS AND ORDINARILY INTENDED FOR SALE, INCLUDING PREPARATIONS OF VEGETABLES, FRUIT, MILK, CEREALS, FLOUR, STARCH, BIRDS’ EGGS, MEAT, MEAT OFFALS, ANIMAL BLOOD, FISH, CRUSTACEANS OR MOLLUSCS, NOT OTHERWISE SPECIFIED.	Ten per cent. <i>ad valorem</i> .

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

I. 4. COFFEE, cured—

"Coffee" means the seed of the coffee tree (*coffea*), whether with or without husk, whether cured or uncured, but does not include the seed while still attached to the tree. Eighty-five rupees per quintal.

I. 5. TEA—

"Tea" includes all varieties of the product known commercially as tea, and also includes green tea.

- (1) Tea, all varieties except package tea falling within sub-item (2) of this Item. Not exceeding sixty-six paise per kilogram as the Central Government may, by notification in the Official Gazette, fix: Provided that different rates may be fixed for tea produced in different areas having regard to the average sale price of such tea for home consumption or export and other relevant considerations.
- (2) Package tea, that is to say, tea packed in any kind of container containing not more than 27 kilograms net of tea. Forty-six paise per kilogram, plus the duty for the time being leviable under sub-item (1) of this Item, if not already paid.

II. BEVERAGES AND TOBACCO

II. 1. TOBACCO—

"Tobacco" means any form of tobacco, whether cured or uncured and whether manufactured or not, and includes the leaf, stalks and stems of the tobacco plant, but does not include any part of a tobacco plant while still attached to the earth.

A. UNMANUFACTURED TOBACCO—

Per kilogram.

- (1) if flue cured and used in the manufacture of cigarettes. Three rupees and fifty paise.
- (2) if flue cured and used for the manufacture of smoking mixtures for pipes and cigarettes. Twenty-seven rupees and fifty paise.
- (3) if flue cured and not otherwise specified. Two rupees and fifty paise.
- (4) if other than flue cured and used for the manufacture of (a) cigarettes or (b) smoking mixtures for pipes and cigarettes. Two rupees and eighty-five paise.
- (5) if other than flue cured and not actually used for the manufacture of (a) cigarettes or (b) smoking mixtures for pipes and cigarettes or (c) birls— One rupee and seventy-five paise.
- (i) stems of tobacco larger than 0.35 millimetres in size;
- (ii) dust of tobacco;
- (iii) tobacco cured in whole leaf form and packed or tied in bundles, hanks or bunches or in the form of twists or coils.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

- | | |
|---|-----------------------------|
| (6) if other than flue cured and not otherwise specified. | Two rupees and fifty paise. |
| (7) if used for agricultural purposes | Nil. |
| (8) stalks | Twenty-five paise. |

B. MANUFACTURED TOBACCO—

- | | |
|--|---|
| (1) Cigars and cheroots of which the value— | Per hundred |
| (i) exceeds Rs. 25 a hundred | Twenty-one rupees. |
| (ii) exceeds Rs. 15 a hundred, but does not exceed Rs. 25 a hundred. | Twelve rupees and seventy-five paise. |
| (iii) exceeds Rs. 5 a hundred, but does not exceed Rs. 15 a hundred. | Four rupees and fifty paise. |
| (iv) exceeds Rs. 1.25 a hundred, but does not exceed Rs. 5 a hundred. | One rupee and twenty paise. |
| (2) Cigarettes | One hundred and twenty-five per cent. <i>ad valorem</i> . |
| (3) Biris in the manufacture of which any process has been conducted with the aid of machines operated with or without the aid of power. | Three rupees per thousand. |

III. MINERAL FUELS, LUBRICANTS AND RELATED MATERIALS

III.1. MOTOR SPIRIT—

Motor spirit, that is to say,—

- (i) any mineral oil (excluding crude mineral oil) which has its flashing point below seventy-six degrees of Fahrenheit's thermometer, and which, either by itself or in admixture with any other substance, is suitable for use as fuel for internal combustion engines; and
- (ii) power alcohol, that is to say, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated), which, either by itself or in admixture with any other substance, is suitable for being used as aforesaid.

Six hundred and twenty rupees per kilolitre at fifteen degrees of Centigrade thermometer.

Explanation I.—"Mineral oil" means an oil consisting of a single liquid hydrocarbon or a liquid mixture of hydrocarbons (except for associated impurities) derived from petroleum, coal, shale, peat or any other bituminous substance, and includes any similar oil produced by synthesis or otherwise.

Explanation II.—"Flashing point" shall be determined in accordance with the tests specified in this behalf in the rules made under the Petroleum Act, 1934 (30 of 1934).

III.2. KEROSENE—

Kerosene, that is to say, any mineral oil (excluding mineral colza oil and turpentine substitute) which has a flame height of eighteen millimetres or more and is ordinarily used as an illuminant in oil burning lamps.

Two hundred and thirty-five rupees per kilolitre at fifteen degrees of Centigrade thermometer.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

Explanation I.—The expression “mineral oil” has the meaning assigned to it in *Explanation I* to Item No. III.1.

Explanation II.—“Flame height” shall be determined in the apparatus known as the smoke point lamp in the manner specified in this behalf by the Central Government by notification in the Official Gazette.

III.3. REFINED DIESEL OILS AND VAPORIZING OIL—

that is to say, any mineral oil (excluding mineral colza oil and turpentine substitute), which has its flashing point at or above seventy-six degrees of Fahrenheit's thermometer, and satisfies either of the following requirements :—

- (i) the oil has a flame height of ten millimetres or more but less than eighteen millimetres; or
- (ii) the oil has a flame height of less than ten millimetres but has a viscosity of less than one hundred seconds by Redwood I Viscometer at one hundred degrees of Fahrenheit's thermometer, and contains less than one quarter of one per cent. by weight of any bituminous substance.

- (1) Refined diesel oils . . . Four hundred and eighty-nine rupees per kilolitre at fifteen degrees of Centigrade thermometer.
- (2) Vaporizing oil . . . Four hundred and eighty-nine rupees per kilolitre at fifteen degrees of Centigrade thermometer.

Explanation.—The expressions “mineral oil”, “flashing point” (and “flame height”) have the meanings respectively assigned to them in *Explanations I* and *II* to Item No. III.1 and in *Explanation II* to Item No. III.2.

III. 4. DIESEL OIL, NOT OTHERWISE SPECIFIED, that is to say, any mineral oil which—

- (i) has a flame height of less than ten millimetres ;
- (ii) contains one quarter of one per cent. or more by weight of any bituminous substance ; and
- (iii) possesses a viscosity of less than one hundred seconds by Redwood I Viscometer at one hundred degrees of Fahrenheit's thermometer.

Explanation.—The expressions, “mineral oil” and “flame height” have the meanings respectively assigned to them in *Explanation I* to Item No. III.1 and in *Explanation II* to Item No. III.2.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
III.5.	FURNACE OIL, that is to say, any mineral oil which— (i) has a flame height of less than ten millimetres ; (ii) contains one quarter of one per cent. or more by weight of any bituminous substance ; and (iii) possesses a viscosity of one hundred seconds or more by Redwood I Viscosimeter at one hundred degrees of Fahrenheit's thermometer. <i>Explanation.</i> —The expressions “mineral oil” and “flame height” have the meanings respectively assigned to them in <i>Explanation I</i> to Item No. III.1 and in <i>Explanation II</i> to Item No. III.2.	Seventy-five rupees and forty-five paise per kilolitre at fifteen degrees of Centigrade thermometer.
III.6.	ASPHALT, BITUMEN AND TAR— (1) Asphalt and bitumen (including cut-back bitumen and asphalt) natural or produced from petroleum or shale. (2) Tar distilled from coal or lignite, and other mineral tars, including partially distilled tars and blends of pitch with creosote oils or with other coal tar distillation products.	Thirty per cent. <i>ad valorem</i> . Thirty per cent. <i>ad valorem</i> .
III.7.	ALL PRODUCTS DERIVED FROM REFINING OF CRUDE PETROLEUM OR SHALE (WHETHER GASEOUS, LIQUID, SEMI-SOLID OR SOLID IN FORM), NOT OTHERWISE SPECIFIED, INCLUDING REFINERY GASES, LUBRICATING OIL AND GREASES, WAXES AND COKE.	Twenty per cent. <i>ad valorem</i> .
IV. VEGETABLE OILS AND FATS		
IV.1.	VEGETABLE NON-ESSENTIAL OILS, all sorts, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power.	One hundred and ten rupees and twenty-five paise per metric tonne.
IV.2.	VEGETABLE PRODUCT— “Vegetable product” means any vegetable oil or fat which, whether by itself or in admixture with any other substance, has by hydrogenation or by any other process been hardened for human consumption.	Ten per cent. <i>ad valorem</i> .
V. CHEMICALS		
V.1.	PIGMENTS, COLOURS, PAINTS, ENAMELS, VARNISHES, BLACKS AND CELLULOSE LACQUERS— A. (1) Pigments, colours, paints and enamels— (i) Zinc oxide, red lead, white lead and titanium dioxide white. (ii) Aluminium paste (2) Dry colours, namely, the following: lead chromes and Brunswick green.	Nineteen rupees and seventy-five paise per quintal. Seventy-five paise per kilogram Seventeen rupees and twenty-five paise per quintal.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
(3) Water paints—		
(i)	Dry distemper including cement-based water paints.	Seventeen rupees and twenty-five paise per quintal.
(ii)	Oil-bound distemper	Thirty rupees and fifty paise per quintal.
(iii)	Water pigment finishes for leather	Forty-two paise per litre.
(iv)	Plastic emulsion paint	One rupee and five paise per litre.
(4) Oil paints and enamels—		
(i)	Tinting paste (Blue)	Seventy-five paise per kilogram.
(ii)	Stiff paints	Nineteen rupees and fifty paise per quintal.
(iii)	Ready-mixed paints and enamels	Sixty-five paise per litre.
(5)	Dispersed Organic pigments ordinarily used for the printing of textiles, whether in the form of powder, paste, or in emulsion.	Two rupees and fifty paise per kilogram.
(6)	Pigments, colours, paints and enamels, not otherwise specified.	Seventeen rupees and twenty-five paise per quintal, if sold by weight ; Fifty-six paise per litre, if sold by volume.
B. Varnishes and blacks—		
(1)	Varnishes	Thirty-five paise per litre.
(2)	Bituminous and coal-tar blacks	Eighteen paise per litre.
C. Cellulose lacquers—		
(1)	Nitrocellulose lacquers, clear and pigmented and nitrocellulose ancillaries in liquid form.	One rupee and fifty paise per litre.
(2)	Nitrocellulose ancillaries in semi-solid and pasty forms.	Fifty paise per kilogram.
(3)	Cellulose lacquers, not otherwise specified.	One rupee and forty paise per litre.
V. 2.	SODA ASH	Five per cent. <i>ad valorem</i> .
V. 3.	CAUSTIC SODA, WHETHER IN A SOLID FORM OR IN LYE.	Five per cent. <i>ad valorem</i> .
V. 4.]	SODIUM SILICATE	Twenty-five per cent. <i>ad valorem</i> .
V. 5.]	GLYCERINE	Seventeen rupees per quintal.
V. 6.]	SYNTHETIC ORGANIC DYESTUFFS (INCLUDING PIGMENT DYESTUFFS) AND SYNTHETIC ORGANIC DERIVATIVES USED IN ANY DYEING PROCESS.	Fifteen per cent. <i>ad valorem</i> .
V. 7.]	SYNTHETIC ORGANIC PRODUCTS OF A KIND USED AS ORGANIC LUMINO-PHORES; PRODUCTS OF THE KIND KNOWN AS OPTICAL BLEACHING AGENTS, SUBSTANTIVE TO THE FIBRE.	Fifteen per cent. <i>ad valorem</i> .

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
V.8.	<p>PATENT OR PROPRIETARY MEDICINES NOT CONTAINING ALCOHOL, OPIUM, INDIAN HEMP OR OTHER NARCOTIC DRUGS OR OTHER NARCOTICS OTHER THAN THOSE MEDICINES WHICH ARE EXCLUSIVELY AYURVEDIC, UNANI, SIDHA OR HOMOEOPATHIC.</p> <p><i>Explanation I.</i>—"Patent or proprietary medicines" means any drug or medicinal preparation, in whatever form, for use in the internal or external treatment of, or for the prevention of ailments in, human beings or animals which bears either on itself or on its container or both, a name which is not specified in a monograph in a Pharmacopoea, Formulary or other publications notified in this behalf by the Central Government in the Official Gazette, or which is a brand name, that is, a name or a registered trade mark under the Trade and Merchandise Marks Act, 1958 (43 of 1958), or any other mark such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to that medicine for the purpose of indicating or so as to indicate a connection in the course of trade between the medicine and some person having the right either as proprietor or otherwise to use the name or mark with or without any indication of the identity of that person.</p> <p><i>Explanation II.</i>—"Alcohol", "Opium", "Indian Hemp", "Narcotic Drugs" and "Narcotics" have the meanings respectively assigned to them in section 2 of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (16 of 1955).</p>	Ten per cent. <i>ad valorem</i> .
V.9.	<p>COSMETICS AND TOILET PREPARATIONS NOT CONTAINING ALCOHOL OR OPIUM, INDIAN HEMP, OR OTHER NARCOTIC DRUGS OR NARCOTICS, NAMELY:—</p> <p>(i) Preparations for the care of the skin including beauty creams, vanishing creams, cold creams, make up creams, cleansing creams, skin foods and tonics, face powders, baby powders, toilet powders and talcum powders.</p> <p>(ii) Hair lotion, cream and pomade.</p> <p><i>Explanation.</i>—"Alcohol", "Opium", "Indian Hemp", "Narcotic Drugs" and "Narcotics" have the meanings respectively assigned to them in section 2 of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (16 of 1955).</p>	Twenty-five per cent. <i>ad valorem</i> .
V.10.	NITRIC, HYDROCHLORIC AND SULPHURIC ACIDS (INCLUDING FUMING ACIDS AND ANHYDRIDES THEREOF), ALL SORTS.	Ten per cent. <i>ad valorem</i> .
V.11.	COMPRESSED, LIQUEFIED OR SOLIDIFIED GASES, THE FOLLOWING, NAMELY:—	
	(1) Oxygen	Ten per cent. <i>ad valorem</i> .
	(2) Chlorine	Ten per cent. <i>ad valorem</i> .
	(3) Ammonia	Ten per cent. <i>ad valorem</i> .
	(4) Carbonic acid (Carbon dioxide)	One rupee per kilogram.
	(5) Refrigerant gases, not otherwise specified, such as sulphur dioxide and freon.	Twenty per cent. <i>ad valorem</i> .

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
V.12.	FERTILISERS, ALL SORTS, BUT EXCLUDING NATURAL, ANIMAL OR VEGETABLE FERTILIZERS WHEN NOT CHEMICALLY TREATED.	Ten per cent. <i>ad valorem</i> .
V.13.	"SOAP" means all varieties of the product known commercially as soap—	
	(1) Soap, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power or of steam for heating—	
	(i) soap, household and laundry	Six and a half per cent. <i>ad valorem</i> .
	(ii) other sort	Nine and a half per cent. <i>ad valorem</i> .
	(2) Soap, in or in relation to the manufacture of which no process has been carried on with the aid of power or of steam for heating.	Six and a half per cent. <i>ad valorem</i> .
V.14.	ARTIFICIAL OR SYNTHETIC RESINS AND PLASTIC MATERIALS, AND ARTICLES THEREOF—	Thirty per cent. <i>ad valorem</i> .
	(1) Artificial or synthetic resins and plastic materials in any form, whether solid, liquid or pasty, or as powder, granules or flakes, or in the form of moulding powders, the following, namely:—	
	(i) Condensation, Poly-condensation and Poly-addition products, whether or not modified or polymerised, including Phenoplasts, Aminoplasts, Alkyds, Polyurethane, Polyallyl Esters and other Unsaturated Polyesters;	
	(ii) Polymerisation and Copolymerisation products including Polyethylene and Poly-tetrahaloethylene, Polyisobutylene, Polystyrene, Polyvinyl chloride, Polyvinyl acetate, Polyvinyl Chloroacetate and other Polyvinyl derivatives, Polyamides, Polyacrylic and Polymethacrylic derivatives and Coumarone-Indene resins; and	
	(iii) Cellulose acetate, (including di- or tri-acetate), Cellulose acetate butyrate and Cellulose propionate, Cellulose acetate-propionate, Ethyl cellulose and Benzyl cellulose, whether plasticised or not, and plasticised Cellulose nitrate.	
	(2) Articles made of plastics, all sorts, including tubes, rods, sheets, foils, sticks, other rectangular or profile shapes, whether laminated or not, and whether rigid or flexible, including lay-flat tubings and Polyvinyl chloride sheets.	
	<i>Explanation.</i> —For the purpose of sub-item (2), "plastics" means the various artificial or synthetic resins or plastic material included in sub-item (1).	
V.15.	ORGANIC SURFACE-ACTIVE AGENTS (OTHER THAN SOAP); SURFACE ACTIVE PREPARATIONS AND WASHING PREPARATIONS, WHETHER OR NOT CONTAINING SOAP.	Ten per cent. <i>ad valorem</i> .
V.16.	CELLOPHANE, THAT IS, ANY FILM OR SHEET OF REGENERATED CELLULOSE.	Twenty per cent. <i>ad valorem</i> .

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

VI. MANUFACTURED GOODS CLASSIFIED CHIEFLY BY MATERIAL

VI.1. TYRES—

"Tyre" means a pneumatic tyre in the manufacture of which rubber is used, and includes the inner tube and the outer cover of such a tyre.

(1) Tyres for motor vehicles Forty per cent. *ad valorem*.

(2) For cycles (other than motor cycles)—

(a) tyres Sixty paise per tyre or fifteen per cent. *ad valorem*, whichever is higher.

(b) tubes Thirty paise per tube or fifteen per cent. *ad valorem*, whichever is higher.

(3) All other tyres Fifteen per cent. *ad valorem*.

VI. 2. RUBBER PRODUCTS, THE FOLLOWING, NAMELY :—

(1) Latex foam sponge Twenty per cent. *ad valorem*.

(2) Plates, sheets and strips unhardened, whether vulcanised or not, and whether combined with any textile material or otherwise. Twenty per cent. *ad valorem*.

(3) Piping and tubing, of unhardened vulcanised rubber. Fifteen per cent. *ad valorem*.

(4) Transmission, conveyor or elevator belts or belting, of vulcanised rubber. Fifteen per cent. *ad valorem*.

VI.3. PLYWOOD, BLOCKBOARD, LAMINBOARD, BATTEN BOARD, HARD OR SOFT WALL BOARDS OR INSULATING BOARD AND VENEERED PANELS; WHETHER OR NOT CONTAINING ANY MATERIAL OTHER THAN WOOD; CELLULAR WOOD PANELS; BUILDING BOARDS OF WOOD PULP OR OF VEGETABLE FIBRE, WHETHER OR NOT BONDED WITH NATURAL OR ARTIFICIAL RESINS OR WITH SIMILAR BINDERS; AND ARTIFICIAL OR RECONSTITUTED WOOD BEING WOOD SHAVINGS, WOOD CHIPS, SAW DUST, WOOD FLOUR OR OTHER LIGNEOUS WASTE AGGLOMERATED WITH NATURAL OR ARTIFICIAL RESINS OR OTHER ORGANIC BINDING SUBSTANCES, IN SHEETS, BLOCKS, BOARDS OR THE LIKE—

(1) Plywood for Tea-chests when cut to size in panels or shooks and packed in sets. Ten per cent. *ad valorem*.

(2) All others Fifteen per cent. *ad valorem*.

VI.4. PAPER, all sorts (including pasteboard, mill-board, strawboard and cardboard), in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power—

Per kilogram

(1) Cigarette tissue One rupee.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
	(2) Blotting, toilet, target, tissue other than cigarette tissue, teleprinter, typewriting, manifold, bank, bond, art paper, chrome paper, tub-sized paper, cheque paper, stamp paper, cartridge paper, parchment, and coated board (including art board, chrome board and board for playing cards).	Fifty paise.
	(3) Printing and writing paper, packing and wrapping paper, strawboard and pulp-board, including grey board, corrugated board, duplex and triplex boards, other sorts.	Thirty-five paise.
	(4) All other kinds of paper and paper board not otherwise specified.	Fifty paise.
VI.5.	RAYON AND SYNTHETIC FIBRES AND YARN.	Forty-five rupees per kilogram.
	<i>Explanation.</i> —"Rayon and synthetic fibres and yarn" shall be deemed to include man-made fibres and yarn made out of man-made fibres.	
VI.6.	COTTON TWIST, YARN AND THREAD, ALL SORTS, sized or unsized, in all forms including skeins, hanks, cops, cones, bobbins, pirns, spools, reels, cheeses, balls or on warp beams in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power—	
	(1) of counts 29 or more	Six rupees and fifty paise per kilogram.
	(2) of counts less than 29	One rupee per kilogram.
	<i>Explanation I.</i> —"Count" means the size of grey yarn expressed as the number of 1000 metre hanks per one-half kilogram.	
	<i>Explanation II.</i> —For multiple fold yarn, "count" means the count of the basic single yarn.	
VI.7.	WOOLLEN YARN, ALL SORTS INCLUDING KNITTING WOOL, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power—	
	(1) worsted yarn—	
	(i) of 48s counts and more	Twenty per cent. <i>ad valorem</i> .
	(ii) of less than 48s counts.	Fifteen per cent. <i>ad valorem</i> .
	(2) Others	Seven and a half per cent. <i>ad valorem</i> .
	<i>Explanation.</i> —"Count" means the size of single yarn expressed as the number of 560 yard hanks per pound.	
VI.8.	COTTON FABRICS—	
	"Cotton fabrics" means all varieties of fabrics manufactured either wholly or partly from cotton and includes dhooties, sarees, chadders, bed-sheets, bed-spreads, counter-panes, table-cloths, embroidery in the piece, in strips or in motifs and fabrics impregnated or coated with preparations of cellulose derivatives or of other artificial plastic materials but does not include any such fabric if it contains—	
	(i) 40 per cent. or more by weight of wool;	
	(ii) 40 per cent. or more by weight of silk; or	

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
	(iii) 60 per cent. or more by weight of rayon or artificial silk	
	Provided that in the case of embroidery in the piece, in strips or in motifs and fabrics impregnated or coated with preparations of cellulose derivatives or of other artificial plastic materials, the percentages referred to in (i) to (iii) above shall be in relation to the base fabrics which are embroidered or impregnated or coated, as the case may be—	
	A. Cotton fabrics other than (i) embroidery in the piece, in strips or in motifs, and (ii) fabrics impregnated or coated with preparations of cellulose derivatives or of other artificial plastic materials,—	
	(i) Coating, suiting, tussors, corduroy, gaberdine, bed-ford, satin, denim, lappet, lace, knitted fabric, tapestry, furnishing fabric including jacquard curtain cloth, gadlappet, mattress fabric, terry towel including turkish towel, terry towelling cloth including turkish towelling cloth, blanket, canvas, duck, filter cloth, tracing cloth and bukram cloth.	Twelve and a half per cent. <i>ad valorem</i> .
	(a) Others—	
	(a) Cotton fabrics, superfine— that is to say, fabrics in which the average count of yarn is 48s or more	Eighty paise per square metre.
	(b) Cotton fabrics, fine— that is to say, fabrics in which the average count of yarn is 35s or more but is less than 48s.	Eighty paise per square metre.
	(c) Cotton fabrics, medium-A— that is to say, fabrics in which the average count of yarn is 26s or more but is less than 35s.	Sixty paise per square metre.
	(d) Cotton fabrics, medium-B— that is to say, fabrics in which the average count of yarn is 17s or more but is less than 26s.	Sixty paise per square metre.
	(e) Cotton fabrics, coarse — that is to say, fabrics in which the average count of yarn is less than 17s.	Sixty paise per square metre.
	(f) Cotton fabrics not otherwise specified.	Eighty paise per square metre.
	B. Embroidery, in the piece, in strips or in motifs, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power.	The duty for the time being leviable on the base fabrics, if not already paid, <i>plus</i> twenty per cent. <i>ad valorem</i> .
	C. Cotton fabrics impregnated or coated with preparations of cellulose derivatives or of other artificial plastic materials.	The duty for the time being leviable on the base fabrics, if not already paid, <i>plus</i> twenty-five per cent. <i>ad valorem</i> .

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

Explanation I.—“Base fabrics” means fabrics falling under sub-item A of this Item which are subjected to the process of embroidery or which are impregnated or coated with preparations of cellulose derivatives or of other plastic materials.

Explanation II.—“Count” means count of grey yarn.

Explanation III.—For the purpose of determining the average count of yarn, the following rules shall apply, namely :—

- (a) yarn used in the borders or selvages shall be ignored;
- (b) for multiple-fold yarn, the count of the basic single yarn shall be taken and the number of ends per 25·4 millimetres in the reed or the number of picks per 25·4 millimetres, as the case may be, shall be multiplied by the number of plies in the yarn;
- (c) in the case of fabrics manufactured from cotton and other yarns, the other yarns shall, for the aforesaid purpose, be deemed to be cotton yarn;
- (d) the average count shall be obtained by applying the following formula namely :—

“(Count of warp × number of ends per 25·4 millimetres in the reed) + (Count for weft × number of picks per 25·4 millimetres).

(Number of ends per 25·4 millimetres in the reed) ÷ (Number of picks per 25·4 millimetres), the result being rounded off, wherever necessary, by treating any fraction which is one-half or more as one, and disregarding any fraction which is less than one-half.”

VI.9. SILK FABRICS—

“Silk fabrics” means all varieties of fabrics manufactured either wholly or partly from silk and includes embroidery in the piece, in strips or in motifs but does not include any such fabric—

- (i) if it contains 40 per cent. or more by weight of wool;
- (ii) if it contains cotton or artificial silk or both and less than 40 per cent. by weight of silk;
- (iii) if it contains no cotton and no artificial silk and less than 40 per cent. by weight of silk; or
- (iv) if manufactured on a handloom:

Provided that in the case of embroidery in the piece, in strips or in motifs, the percentages referred to in (i) to (iv) above shall be in relation to the base fabrics which are embroidered—

- (i) Silk fabrics, other than embroidery in the piece, in strips or in motifs. Thirty-six paise per square metre.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

- (2) Embroidery, in the piece, in strips or in motifs, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power. The duty for the time being leviable on the base fabrics, if not already paid, *plus* twenty per cent. *ad valorem*.

Explanation.—“Base fabrics” means fabrics falling under sub-item (1) of this Item which are subjected to the process of embroidery.

VI.10. WOOLLEN FABRICS—

“Woollen fabrics” means all varieties of fabrics manufactured wholly of wool or which contain 40 per cent. or more by weight of wool and includes blankets, lohis, rugs, shawls and embroidery in the piece, in strips or in motifs:

Provided that in the case of embroidery in the piece, in strips or in motifs, the percentage referred to above shall be in relation to the base fabrics which are embroidered—

- (1) Woollen fabrics, other than embroidery in the piece, in strips or in motifs. Six and a quarter per cent. *ad valorem*.
- (2) Embroidery, in the piece, in strips or in motifs, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power. The duty for the time being leviable on the base fabrics, if not already paid, *plus* twenty per cent. *ad valorem*.

Explanation.—“Base fabrics” means fabrics falling under sub-item (1) of this Item which are subjected to the process of embroidery.

VI.11. RAYON OR ARTIFICIAL SILK FABRICS—

“Rayon or artificial silk fabrics” means all varieties of fabrics manufactured either wholly or partly from rayon or artificial silk and includes embroidery in the piece, in strips or in motifs and fabrics impregnated or coated with preparations of cellulose derivatives or of other artificial plastic materials, but does not include any such fabric—

- (i) if it contains 40 per cent. or more by weight of wool ;
- (ii) if it contains 40 per cent. or more by weight of silk ;
- (iii) if it contains cotton and less than 60 per cent. by weight of rayon or artificial silk or
- (iv) if it contains no cotton and less than 40 per cent. by weight of wool and less than 40 per cent. by weight of rayon or artificial silk :

Provided that in the case of embroidery in the piece, in strips or in motifs and fabrics impregnated or coated with preparations of cellulose derivatives or of other artificial plastic materials, the percentages referred to in (i) to (iv) above shall be in relation to the base fabrics which are embroidered or impregnated or coated, as the case may be—

- (1) Rayon or artificial silk fabrics other than (i) embroidery in the piece, in strips or in
- Seven paise per square metre.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
	motifs, and (ii) fabrics impregnated or coated or with preparations of cellulose derivatives of other artificial plastic materials.	
	(2) Embroidery, in the piece, in strips or in motifs, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power.	The duty for the time being leviable on the base fabrics, if not already paid, <i>plus</i> twenty per cent. <i>ad valorem</i> .
	(3) Fabrics impregnated or coated with preparations of cellulose derivatives or of other artificial plastic materials.	The duty for the time being leviable on the base fabrics, if not already paid, <i>plus</i> , twenty-five per cent. <i>ad valorem</i> .
	Explanation. —"Base fabrics" means fabrics falling under sub-item (1) of this Item which are subjected to the process of embroidery or which are impregnated or coated with preparations of cellulose derivatives or of other plastic materials.	
VI.12.	JUTE MANUFACTURES (INCLUDING MANUFACTURES OF BIMLIPATAM JUTE OR OF MASTA FIBRE), ALL SORTS—	
	(1) Hessians	Five hundred and fifty rupees per metric tonne.
	(2) All other descriptions of jute manufactures not otherwise specified (including cloth, bags, twist, yarn, rope and twine).	Three hundred and fifty rupees per metric tonne.
VI.13.	TEXTILE FABRICS IMPREGNATED OR COATED WITH PREPARATIONS OF CELLULOSE DERIVATIVES OR OF OTHER ARTIFICIAL PLASTIC MATERIALS, NOT OTHERWISE SPECIFIED.	Twenty-five per cent. <i>ad valorem</i> .
VI.14.	CEMENT, all varieties	Twenty-one per cent. <i>ad valorem</i>
VI.15.	GLASS AND GLASSWARE—	
	(1) sheet glass and Plate glass	Ten per cent. <i>ad valorem</i> .
	(2) Laboratory glassware	Five per cent. <i>ad valorem</i> .
	(3) Glass shells, glass globes and chimneys, for lamps and lanterns.	Ten per cent. <i>ad valorem</i> .
	(4) Other glassware including tableware	Fifteen per cent. <i>ad valorem</i> .
VI.16.	CHINAWARE AND PORCELAINWARE, ALL SORTS—	
	(1) Tableware	Fifteen per cent. <i>ad valorem</i> .
	(2) Sanitaryware	Fifteen per cent. <i>ad valorem</i> .
	(3) Glazed tiles	Ten per cent. <i>ad valorem</i> .
	(4) Not otherwise specified	Ten per cent. <i>ad valorem</i> .
	Explanation. —"Chinaware" includes all glazed clayware but does not include terracotta.	

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
VI.17.	ASBESTOS-CEMENT PRODUCTS, ALL SORTS, INCLUDING FLAT AND CORRUGATED SHEETS, PIPES AND TUBES AND TILES.	Ten per cent. <i>ad valorem</i> .
VI.18.	SILVER	Seven paise per every ten grams.
VI.19.	IRON IN ANY CRUDE FORM including pig iron, scrap iron, molten iron or iron cast in any other shape or size.	Forty-five rupees per metric tonne.
VI.20.	STEEL INGOTS including steel melting scrap.	Seventy-five rupees per metric tonne.
VI.21.	COPPER AND COPPER ALLOYS CONTAINING NOT LESS THAN FIFTY PER CENT. BY WEIGHT OF COPPER—	
	(1) In any crude form including ingots, bars, blocks, slabs, billets, shots and pellets.	One thousand and five hundred rupees per metric tonne.
	(2) Wire bars, wire rods and castings, not otherwise specified.	One thousand and five hundred rupees per metric tonne.
	(3) Manufactures, the following namely, plates, sheets, circles, strips and foils in any form or size	Two thousand rupees per metric tonne.
	(4) Pipes and tubes	Ten per cent. <i>ad valorem</i> .
VI.22.	IRON OR STEEL PRODUCTS, THE FOLLOWING, NAMELY:—	
	(1) Semi-finished steel including, blooms, billets, slabs sheet, bars, tin bars and hoe bars.	Fifty rupees per metric tonne <i>plus</i> the excise duty for the time being leviable on steel ingots.
	(2) Bars, rods, coils, wires, joists, girders, angles, channels, tees, beams, zeds, trough, piling, and all other rolled, forged or extruded shapes and sections, not otherwise specified.	Fifty rupees per metric tonne <i>plus</i> the excise duty for the time being leviable on steel ingots.
	(3) Plates and sheets (including uncoated plates and sheets intended for tinning and forms such as ridges, channels, rain water pipes and their fittings made from plates or sheets, but not including plates and sheets after tinning), and hoops, all sorts, other than skelp and strips.	Three hundred rupees per metric tonne <i>plus</i> the excise duty for the time being leviable on steel ingots.
	(4) Flats, skelp and strips	Three hundred rupees per metric tonne <i>plus</i> the excise duty for the time being leviable on steel ingots.
	(5) Pipes and tubes (including blanks therefor) all sorts, whether rolled, forged, spun, cast, drawn, annealed, welded or extruded.	Fifteen per cent. <i>ad valorem plus</i> the excise duty for the time being leviable on pig iron or steel ingots, as the case may be.
	(6) All other steel castings, not otherwise specified	Five per cent. <i>ad valorem plus</i> the excise duty for the time being leviable on steel ingots.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
VI.23.	ZINC—	
	(1) Unwrought, including ingots, cakes, bars, blocks, hard or soft slabs, billets, plates, cathodes, anodes, pellets, spelter, dross, ashes and broken zinc.	Five hundred rupees per metric tonne.
	(2) Manufactures, the following, namely, plates, sheets, circles, strips and foils in any form or size.	Eight hundred rupees per metric tonne.
	(3) Pipes and tubes	Ten per cent. <i>ad valorem</i> .
VI.24.	ALUMINIUM—	
	(1) In any crude form, including ingots, bars, blocks, slabs, billets, shots and pellets.	Nine hundred and fifty rupees per metric tonne.
	(2) Wire bars, wire rods and castings, not otherwise specified.	Nine hundred and fifty rupees per metric tonne.
	(3) Manufactures, the following, namely, plates, sheets, circles and strips in any form or size, not otherwise specified.	One thousand four hundred and fifty rupees per metric tonne.
	(4) Foils, that is a product of thickness (excluding any backing) not exceeding 0.15 millimetres.	Two thousand rupees per metric tonne.
	(5) Pipes and tubes, other than extruded pipes and tubes.	Twenty per cent. <i>ad valorem</i> .
	(6) Extruded shapes and sections including extruded pipes and tubes.	Twenty per cent. <i>ad valorem</i> .
VI.25.	LEAD unwrought, including ingots, pigs, blocks, anodes, slabs, cakes, and cast sticks.	Five hundred rupees per metric tonne.
VI.26.	TIN PLATE AND TINNED SHEETS INCLUDING TIN TAGGERS, AND CUTTINGS OF SUCH PLATES, SHEETS OR TAGGERS.	Three hundred and seventy-five rupees per metric tonne.
VII. MACHINERY AND TRANSPORT EQUIPMENT		
VII.1.	INTERNAL COMBUSTION ENGINES, ALL SORTS, NAMELY:—	
	(1) Those designed for use as a prime mover for transport vehicles and have been given for that purpose some special shape, size or quality which would not be essential for their use for any other purpose.	Ten per cent. <i>ad valorem</i>
	(2) Others	Five per cent. <i>ad valorem</i> .
VII.2.	REFRIGERATING AND AIR-CONDITIONING APPLIANCES AND MACHINERY, ALL SORTS, AND PARTS THEREOF—	
	(1) Refrigerators and other refrigerating appliances, which are ordinarily sold or offered for sale as ready assembled units, such as ice makers, bottle coolers, display cabinets and water coolers.	Thirty per cent. <i>ad valorem</i> .
	(2) Air-conditioners and other air-conditioning appliances, which are ordinarily sold or offered for sale as ready assembled units, including package type air-conditioners and evaporative type of coolers.	Thirty per cent. <i>ad valorem</i> .

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
	(3) Parts of refrigerating and air-conditioning appliances and machinery, all sorts.	Forty per cent. <i>ad valorem</i> .
VII.3.	ELECTRIC MOTORS, ALL SORTS AND PARTS THEREOF, NAMELY:—	
	(1) those designed for use in circuits of less than 10 amperes and at a pressure not exceeding 250 volts.	Fifteen per cent. <i>ad valorem</i> .
	(2) those designed for use in circuits at a pressure exceeding 400 volts, and	
	(i) with a rated capacity not exceeding 10 H.P.	Ten per cent. <i>ad valorem</i> .
	(ii) exceeding 10 H.P.	Five per cent. <i>ad valorem</i> .
	(3) all others	Fifteen per cent. <i>ad valorem</i> .
	(4) parts of electric motors	Fifteen per cent. <i>ad valorem</i> .
	<i>Explanation.</i> —This Item does not include motors specially designed for use in gramophone or record players and all parts of such motors.	
VII.4.	POWER DRIVEN PUMPS (INCLUDING MOTOR PUMPS, TURBO PUMPS AND MONOBLOC PUMP SETS) FOR LIQUIDS, WHETHER OR NOT FITTED WITH MEASURING DEVICES.	Twenty per cent. <i>ad valorem</i> .
VII.5.	ELECTRIC BATTERIES AND PARTS THEREOF—	
	(1) Dry	Fifteen per cent. <i>ad valorem</i> .
	(2) Storage	Fifteen per cent. <i>ad valorem</i> .
	(3) Parts of storage batteries, the following, namely, containers, covers and plates.	Seventeen and a half per cent. <i>ad valorem</i> .
VII.6.	ELECTRIC LIGHTING BULBS AND FLUORESCENT LIGHTING TUBES—	
	(1) Vacuum and gas-filled bulbs	Eleven per cent. <i>ad valorem</i> .
	(2) Fluorescent tubes	Twenty-two per cent. <i>ad valorem</i> .
	(3) Sodium and mercury vapour discharge lamps.	Six per cent. <i>ad valorem</i> .
	(4) All sorts, not otherwise specified.	Sixteen per cent. <i>ad valorem</i> .
VII.7.	ELECTRIC FANS, including air circulators but excluding those which are designed for use in an industrial system as parts indispensable for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose—	
	(1) Table, cabin, carriage, pedestal and air circulator fans, not exceeding 40·6 centimetres.	Six per cent. <i>ad valorem</i> .
	(2) All other fans	Eight and a half per cent. <i>ad valorem</i> .

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
VII.8.	WIRELESS RECEIVING SETS, ALL SORTS, INCLUDING TRANSISTOR SETS AND RADIOGRAMS, WITH OR WITHOUT LOUDSPEAKER.	Twenty per cent. <i>ad valorem</i> . ¹¹
VII.9.	PARTS OF WIRELESS RECEIVING SETS (INCLUDING PARTS OF TRANSISTOR SETS AND RADIOGRAMS), NAMELY, ELECTRONIC VALVES AND TUBES, TRANSISTORS AND SEMICONDUCTOR DIODES.	Five rupees each.
VII.10.	ELECTRIC WIRES AND CABLES, ALL SORTS, NOT OTHERWISE SPECIFIED—	
	(1) Insulated wires and cables of copper, aluminium or other metals and alloys, whether sheathed or unsheathed, the conductor of any core of which, not being one specially designed as a pilot core, has a sectional area not exceeding 1.5 square millimetres in the case of copper, or not exceeding 2.5 square millimetres in the case of aluminium or of not more than equivalent conductivity as of copper in the case of other metals and alloys.	Fifteen per cent. <i>ad valorem</i> .
	(2) All others	Five per cent. <i>ad valorem</i> .
	<i>Explanation.</i> —The expression “Electric wires and cables, all sorts” used in this Item shall not include square or rectangular conductors, whether insulated or not.	
VII.11.	DOMESTIC ELECTRICAL APPLIANCES, NOT OTHERWISE SPECIFIED.	Ten per cent. <i>ad valorem</i> .
	<i>Explanation I.</i> —“Domestic electrical appliances” means electrical appliances normally used in the household and similar appliances used in hotels, restaurants, hostels, offices, educational institutions, hospitals, train kitchens, aircraft or ships’ pantries, canteens, tailoring establishments, laundry shops and hair dressing saloons.	
	<i>Explanation II.</i> —Interchangeable parts or auxiliary devices accompanying an appliance to make it suitable for various purposes shall be assessed to duty along with the appliance.	
VII.12.	MOTOR VEHICLES—	
	“Motor vehicles” means all mechanically propelled vehicles adapted for use upon roads, and includes a chassis and a trailer; but does not include a vehicle running upon fixed rails.	
	(1) Auto-cycles, motor cycles, scooters, auto-rickshaws and any other three-wheeled motor vehicles.	One hundred and seventy-five rupees each or seven and a half per cent. <i>ad valorem</i> , whichever is higher.
	(2) Motor vehicles of not more than 16 H.P. by Royal Automobile Club (R.A.C.) rating.	One thousand rupees each or ten per cent. <i>ad valorem</i> , whichever is higher.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
(3)	Motor cars of more than 16 H.P. by Royal Automobile Club (R.A.C.) rating, constructed or adapted to carry not more than nine persons.	Three thousand rupees each or fifteen per cent. <i>ad valorem</i> , whichever is higher.
(4)	Tractors, including agricultural tractors.	Ten per cent. <i>ad valorem</i> .
(5)	Motor vehicles, not otherwise specified.	Two thousand five hundred rupees each or twelve and a half per cent. <i>ad valorem</i> , whichever is higher.

Explanation.—For the purposes of this Item, where a motor vehicle is mounted, fitted or fixed with any weight lifting, earth moving and similar specialised material handling equipment, then such equipment, other than the chassis, shall not be taken into account.

VII.13. CYCLES, PARTS OF CYCLES OTHER THAN MOTOR CYCLES, NAMELY—

- | | |
|---------------------------|-------------------|
| (1) free wheels | Two rupees each. |
| (2) rims | Four rupees each. |

VIII. MISCELLANEOUS MANUFACTURED ARTICLES

VIII.1. FOOTWEAR AND PARTS THEREOF in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power —

- | | |
|---------------------------------|---------------------------------------|
| (1) Footwear | Ten per cent. <i>ad valorem</i> . |
| (2) Parts of footwear | Fifteen per cent. <i>ad valorem</i> . |

Explanation.—“Footwear” includes all varieties of footwear, whether known as boots, shoes, sandals, chappals, or by any other name.

VIII.2. CINEMATOGRAPH FILMS—

- | | |
|--|--------------------------------------|
| (1) Unexposed | Two paise per metre. |
| (2) Exposed— | |
| (i) News-reels and shorts not exceeding 300 metres— | |
| (a) of a width of 30 millimetres or higher. | Fifty paise per metre. |
| (b) below 30 millimetres in width | Thirty paise per metre. |
| (ii) feature films, advertisement shorts, and films not otherwise specified— | |
| (a) of a width of 30 millimetres or higher. | One rupee and fifty paise per metre. |
| (b) below 30 millimetres in width. | One rupee per metre. |

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
VIII.3.	GRAMOPHONES, INCLUDING RECORD PLAYERS, RECORD PLAYING DECKS AND RECORD CHANGER DECKS, WHETHER MECHANICALLY OR ELECTRICALLY DRIVEN, WITH OR WITHOUT AN IN-BUILT SYSTEM OF SOUND REPRODUCTION OR AMPLIFICATION (ACOUSTIC, ELECTRONIC OR TRANSISTORISED), AND PARTS AND ACCESSORIES THEREOF NOT ELSEWHERE SPECIFIED, AND GRAMOPHONE RECORDS, ALL SORTS—	
	(1) Gramophones, record players, record playing decks or record changer decks.	Twenty per cent. <i>ad valorem</i> .
	(2) Parts and accessories of gramophones, record players, record playing decks or record changer decks.	Thirty per cent. <i>ad valorem</i> .
	(3) Gramophone records, all sorts, other than matrices.	Fifteen per cent. <i>ad valorem</i> .
	(4) Matrices for records, impressed.	Thirty per cent. <i>ad valorem</i> .
	(5) Gramophone needles or styli—	
	(i) wholly made of steel	Twenty per cent. <i>ad valorem</i> .
	(ii) others	Twenty-five per cent. <i>ad valorem</i> .
VIII.4.	MATCHES—	
	“Match” includes a firework in the form of a match; and, where a match-stick has more heads than one capable of being ignited by striking, each such head shall be deemed to be a match.	Sixty-five paise for every 1000 matches or fraction thereof.
VIII.5.	MECHANICAL LIGHTERS—	
	“Mechanical lighter” means any mechanical or chemical contrivance for causing ignition which is portable and which operates by producing a spark or flame whether by itself or when brought into contact with gas, and includes a mechanical lighter issued from a factory in an incomplete state or requiring for its completion the addition of a flint.	Three rupees per lighter.
VIII.6.	STEEL FURNITURE MADE PARTLY OR WHOLLY OF STEEL IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER, WHETHER IN ASSEMBLED OR UNASSEMBLED CONDITION.	Twenty per cent. <i>ad valorem</i> .
VIII.7.	CROWN CORKS WITH OR WITHOUT WASHERS OR OTHER FITTINGS OF CORK, RUBBER, POLYETHYLENE OR ANY OTHER MATERIAL.	One paise each.
VIII.8.	PILFER PROOF CAPS FOR PACKAGING, ALL SORTS, WITH OR WITHOUT WASHERS OR OTHER FITTINGS OF CORK, RUBBER, POLYETHYLENE OR ANY OTHER MATERIAL.	One paise each.
VIII.9.	WOOL TOPS	Five rupees per kilogram.

THE SECOND SCHEDULE

(See section 135)

AMENDMENTS TO THE CENTRAL EXCISES AND SALT ACT, 1944 (1 OF 1944)

Long title.—Omit “to Central duties of excise and”.*Preamble.*—Omit “to Central duties of excise on goods manufactured or produced in certain parts of India and”.*Section 1.*—In sub-section (1), omit “Central Excises and”.*Section 2.*—(i) Omit clauses (a), (c), (d), (e) and (k);

(ii) for clause (f), substitute—

‘(f) “manufacture” includes the collection, removal, preparation, steeping, evaporation, boiling or any one or more of these processes, the separation or purification of salt obtained in the manufacture of saltpetre, the separation of salt from earth or other substance so as to produce alimentary salt, and the excavation or removal of natural saline deposits or efflorescence; and the word “manufacturer” shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of salt but also any person who engages in its production or manufacture on his own account if the salt is intended for sale;’;

(iii) for clause (h), substitute—

‘(h) “salt” includes swamp salt, spontaneous salt, and salt or saline solutions made or produced from any saline substance or from salt earth;’;

(iv) in clause (j), for “Central Government”, substitute “Government”.

Section 3.—For section 3, substitute—

Levy and
collection
of duty
on salt.

“3. There shall be levied and collected in such manner as may be prescribed a duty on salt manufactured in any part of India at the rate fixed annually by a Central Act.”.

*Omit section 4.**Section 6.*—For section 6, substitute—

Manufac-
ture of
salt and
salt-petre
to be
subject to
licence.

“6. The Central Government may, by notification in the Official Gazette, provide that, from such date as may be specified in the notification, no person shall, except under the authority and in accordance with the terms and conditions of a licence granted under this Act, engage in the manufacture or any process of the manufacture of salt or saltpetre.”.

Omit section 8.

Section 9.—In clause (a), omit “or of section 8, or of a rule made under clause (iii) of sub-section (2) of section 37”.

Section 10.—(i) for “any goods” substitute “salt”;

(ii) for “such goods are”, substitute “such salt is”; and

(iii) for “the goods”, wherever occurring, substitute “the salt”.

Section 11.—For “excisable goods”, substitute “salt”.

Section 12.—For section 12, substitute—

“12. The Central Government may, by notification in the Official Gazette, declare that any of the provisions of the Central Excises Act, 1969, relating to the levy of and exemption from excise duties, rebate of duty, warehousing, offences and penalties, confiscation, and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty imposed by section 3 on salt.”

Section 16.—For “excisable goods are”, substitute “salt is”; and in the marginal heading, for “excisable goods”, substitute “salt”.

Omit Chapter IV.

Chapter V.—In the heading, omit “RELATING TO SALT”.

Section 37.—(1) In sub-section (2)—

(a) in clause (i), for “duties of excise”, substitute “duty on salt”; and for “the duties”, substitute “the duty”;

(b) for clause (ii), substitute—

“(ii) prohibit absolutely, or with such exceptions or subject to such conditions as the Central Government thinks fit, the manufacture, or any process of the manufacture of salt, except on land or premises approved for the purpose;”;

(c) omit clause (iii),

(d) in clause (iv), for “excisable goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport”, substitute “salt from the place where manufactured or stored or subjected to any process of manufacture and its transport”;

(e) for clause (v), substitute—

“(v) regulate the manufacture or any process of manufacture, the possession, storage and sale of salt;”;

(f) in clause (viii), for “goods”, wherever occurring, substitute “salt”;

(g) omit clause (ix);

(h) for clause (x), substitute—

“(x) impose on persons engaged in the manufacture, storage or sale of salt, the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;”;

(i) omit clause (xi);

(j) in clause (xii), omit the proviso;

(k) in clause (xiii), omit “or section 28”;

(l) for clause (xiv), substitute—

“(xiv) authorise and regulate the inspection of salt factories and provide for the taking of samples, and for the making of tests, of any substance produced therein, and for the inspection or search of any place or conveyance used for the manufacture, storage, sale or transport of salt;”;

(m) in clause (xvi), for “goods which are”, substitute “salt which is”;

(n) in clause (xvii), for “any goods”, substitute “salt”.

(2) In sub-section (3), for “any article”, substitute “salt”.

(3) Omit sub-section (4).

Omit the First Schedule and the Second Schedule.

STATEMENT OF OBJECTS AND REASONS

The Central Excises and Salt Act, 1944 was enacted twenty-five years ago. It was a war-time measure enacted to regulate excise duty on a few commodities and is a concise Act which leaves almost everything to the rules to be made thereunder. The Act provides that the provisions relating to levy, collection, etc., of customs duty under the Customs law may be adapted for the levy, collection, etc., of excise duties. Although from 1947, there is no duty on salt, the manufacture, supply and distribution of this commodity are being regulated under the provisions of the aforesaid Act.

2. Now that excise duty is being levied on a large number of commodities, the provisions of the Central Excises and Salt Act, 1944 have become inadequate. The Central Excise Reorganisation Committee also have recommended that the law should be made comprehensive by including in it all substantive provisions which at present form part of the Central Excise Rules, 1944, or are in the form of adaptations from the Customs law. The Committee have further recommended that the proposed law should not contain any provision relating to salt.

3. Government, therefore, consider it necessary to consolidate and amend the existing law relating to Central duties of excise.

4. The provisions of the Central Excises and Salt Act, 1944 are being suitably amended, as in the Second Schedule of the Bill, so as to confine the provisions thereof to salt alone.

5. Chapter IV of the Central Excises and Salt Act, 1944 which deals with restrictions on transport of excisable goods by sea, applies at present to tobacco only. Government consider that the provisions of this Chapter, being of little practical importance, need not be retained. Government further consider that section 8 and the Second Schedule of the Act which impose restrictions only on possession of tobacco, need not also be retained for the aforesaid reason.

6. The First Schedule of the Bill provides for the description of excisable goods and the rates of duty leviable thereon. This Schedule closely follows the existing First Schedule of the Central Excises and Salt Act, 1944 except that—

(i) the item relating to salt has been omitted;

(ii) all other items have been re-numbered; and

(iii) in item I.5 relating to tea, as so re-numbered, a proviso substantially reproducing the provisions of rule 96F of the Central Excise Rules, 1944, has been added to the effect that different rates of duty may be fixed by the Central Government for different areas having regard to the sale price of tea in internal and external markets and other relevant considerations.

7. The present Bill seeks to achieve the above objects.

8. The notes on clauses explain the more important provisions of the Bill.

NEW DELHI;
The 19th July, 1969.

P. C. SETHI.

RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. F. 11/1/69-CERC, dated the 19th July, 1969 from Shri Prakashchand B. Sethi, Minister of State in the Ministry of Finance to the Secretary, Lok Sabha.]

The Vice-President acting as President having been informed of the subject matter of the Central Excises Bill, 1969, recommends under article 117(1) and (3) read with article 274(1) of the Constitution of India, the introduction in, and the consideration by, the Lok Sabha of the said Bill.

Notes on clauses

(In these Notes, the expression "CERC report" means the report of the Central Excise Reorganisation Committee and the expression "the existing Act" means the Central Excises and Salt Act, 1944.)

Chapter I

Clause 2 is the definition clause. It follows generally the definitions which form part of the existing Act or the Central Excise Rules, 1944, or which have been adapted from the Customs Act, 1962 or which are of a formal nature to make the proposed provisions intelligible. The definition of "factory" in sub-clause (15) has, however, been modified to make it explicit that it includes place or places wherein excisable goods, on manufacture, may be deposited without payment of duty pending their removal out of the factory.

Chapter II corresponds to Chapter II of the Customs Act, 1962. Clauses 3 to 6 provide for classes of officers of Central Excise, their appointment, their powers and entrustment of their functions to certain other officers.

Chapter III

Clause 7.—It replaces section 3 of the existing Act. References to salt have been omitted. It has been made explicit that the levy and collection of the duties will be subject to the other provisions contained in the Bill. The provisions relating to tariff values in section 3 of the existing Act have been put in clause 11 of the Bill.

Clause 8 is new and it provides for the basis for charging duty on excisable goods falling under more than one item or more than one sub-item of the same item of the First Schedule.

Clause 9 is new and it provides for assessment of duty on excisable goods produced or manufactured in the course of or ancillary to any process of production or manufacture at the specified stage of such process and on specified excisable goods only.

Clause 10.—It seeks to substitute the existing basis of valuation, namely, wholesale cash price of an article of like kind and quality, by that of the "normal price" that is to say, the price which it would fetch on a sale in the open market between the buyer and the seller independent of each other. Also, the provisions in the clause and those proposed in clause 11 in relation to tariff values have been made mutually exclusive. (Compare CERC report, Chapter III, paragraphs 23 to 29, pages 43 to 44 and Chapter II, paragraph 25, page 39).

Clause 11.—It reproduces the provisions of sub-sections (2) and (3) of section 3 of the existing Act with the further stipulation that tariff values will be fixed having regard to trend of market price.

Clause 12 is new and it seeks to provide for inclusion or exclusion of value or weight of wrapper, etc., in which the excisable goods may be wrapped or contained, for assessment of duty.

Clause 13 is new and it provides for assessment of duty on excisable parts, ingredients or components of a manufactured or composite article. (Compare CERC report, Chapter II, paragraph 26, page 32).

Clause 14.—In addition to incorporating the provisions of rule 7 of the Central Excise Rules, 1944, power has been taken to prescribe by rules allowance for charges in bulk of, or for evaporation loss in, excisable goods for determining the liability of a person for payment of duty on such goods produced, cured or manufactured or deposited by him.

Clause 15 seeks to incorporate the provisions of rule 9A of the Central Excise Rules, 1944, relating to the date for determination of rate of duty or tariff valuation in respect of excisable goods removed on payment of duty from a factory or warehouse or curers' premises. The date for determination of such rate or tariff valuation in other cases will be regulated by rules.

Clause 16 provides for self-assessment and self-removal procedure introduced in 1968 for certain excisable goods as the normal pattern of excise control.

Clause 17 empowers the Central Government to require removal of certain excisable goods to be specified on physical verification by the proper officer.

Clause 18 seeks to enable excisable goods, on production or manufacture, to be deposited without payment of duty in a warehouse or in any other place of storage approved by the Collector of Central Excise, pending their removal on payment of duty.

Clause 19 is new and it provides for the manner in which duty may be assessed and collected on excisable goods, e.g., U. Foam, air-conditioning machinery, etc., manufactured at the place of the consumer.

Clause 20 deals with restrictions on removal of excisable goods. Sub-clauses (1) and (2) correspond respectively to the provisions of sub-rule (2) and sub-rule (1) of rule 224 of the Central Excise Rules, 1944. Sub-clause (1) further makes it explicit that where excisable goods are removed after 5 p.m. on the Budget day, they will be charged at the enhanced rate, if any, under the Budget proposals. The provisions relating to restrictions on removal, beyond the hours fixed by the Collector of Central Excise and on Sundays and public holidays, in sub-clause (2) will, over and above the restrictions contained in sub-clause (1), apply to those excisable goods to which the provisions of clause 17 apply.

Clause 21 provides for removal of excisable goods without payment of the whole or part of duty (a) for specified industrial processes (compare rules 192 to 196, Central Excise Rules, 1944) and (b) on deferment of payment of the whole or part of the duty assessed. [Compare rule 49 (3), Central Excise Rules, 1944].

Clause 22 incorporates the provisions of rule 9B of the Central Excise Rules, 1944, relating to provisional assessment of duty. The clause is modelled closely on the lines of the corresponding provisions of section 18 of the Customs Act, 1962.

Clause 23.—It provides for schemes commonly referred to as the Compounded Levy Schemes, that is to say, schemes whereby manufacturers on payment of fixed sums related to average production for specified periods are relieved of most excise formalities. At present such schemes apply to manufacturers of excisable goods such as Khandsari Sugar (*vide* rules 92A to 92F, Central Excise Rules, 1944); fabrics on powerlooms (*vide* rules 96I to 96MMMMM, *ibid.*); cotton and woollen yarn (*cf.* rules 96V to 96X, *ibid.*); Electric Battery parts (*vide* rules 96Y to 96ZZZZ).

Clause 24.—It substantially incorporates the provisions of rule 56A of the Central Excise Rules, 1944, whereunder credit of excise duty or, as the case may be, of the additional duty of customs, paid on materials, component parts, etc., to be specified, is allowed to the manufacturers to be set off against the duty that may become due on the finished excisable goods at the time of removal from the factory, etc. The object is to lighten the burden of cumulative excise duties or additional duty of customs without the formalities of inbond movement or manufacture, in cases where it is considered expedient so to do.

Clause 25 is new and it is designed to facilitate removal of samples of excisable goods by manufacturers, etc., for trade, business, exhibition or test.

Clause 26.—It provides for duty to be assessed by the proper officer according to the best of his judgment in certain cases, *e.g.*, where tobacco or coffee is produced without requisite declaration or any excisable goods are cured, manufactured or disposed of in contravention of the provisions in the Bill or are not accounted for in accordance with such provisions. Somewhat similar provisions at present exist in rule 37A and rule 173K of the Central Excise Rules, 1944.

Clause 27 is new and it provides, subject to certain safeguards, for relief of duty in respect of excisable goods which are ordinarily used for more than one purpose and the rate of duty varies with such purpose. The clause is modelled closely on the provisions of section 24 of the Customs Act, 1962.

Clause 28 is new and it provides at one place for powers, which are at present scattered over the Central Excise Rules, 1944, for requiring growers, curers, manufacturers, owners of warehouses and other licensees to maintain such accounts and submit such returns as may be prescribed by regulations. Accounts or returns of raw materials, component parts or ingredients will be required only in respect of such excisable goods as may be specified by notification.

Chapter IV

Clause 29.—Sub-clauses (1) and (2) correspond respectively to sub-rules (1) and (2) of rule 8 of the Central Excise Rules, 1944, dealing with powers to exempt from duty. It has been made explicit that duty exemptions will be in public interest. Sub-clauses (3), (4) and (5) are new; sub-clause (3) relates to the power to grant relief from duty on excisable finished products in the manufacture of which pre-excite stocks of excisable goods have been used and the duty, though prescribed for excisable goods at the raw-material stage as well as at the finished pro-

duct stage, is intended to be levied at one stage only; sub-clause (4) provides for giving retrospective effect to any duty exemption which will be given in such a manner that there is no windfall gain to the manufacturers who may have passed on the duty burden to the purchasers; and sub-clause (5) provides for the continuance of certain notifications and orders relating to exemption from duty.

Clause 30 provides for remission of duty on excisable goods which have become unfit for consumption or marketing or have been lost or destroyed owing to natural or accidental cause or due to any other cause considered unavoidable in a process of manufacture. Provisions for this purpose at present exist in rules 27 (4), 49 (2), 147 and 149 of the Central Excise Rules, 1944.

Clause 31 provides for return of excisable goods to the factory of manufacture or to such other place as may be specified by notification for the purpose of reconditioning, re-manufacture or removal of defects and, if such goods are for any reason unfit for consumption or marketing, for destruction. In respect of the goods so returned, the duty already paid will be rebated to such extent and subject to such conditions as may be prescribed. Similar provisions exist at present in rules 86, 97, 97A and 100 of the Central Excise Rules, 1944.

Clause 32.—It is based on rule 12 of the Central Excise Rules, 1944. As recommended by CERC in Chapter VII, paragraph 18, page 84 of their report, the grant of rebate of the duty paid on the excisable goods exported out of the country has been made mandatory subject to the prohibitions and restrictions under clause 35 and to furnishing proof of export under clause 36.

Clause 33 incorporates the provisions at present contained in rules 13 and 14 of the Central Excise Rules, 1944, relating to export of excisable goods in bond without payment of duty.

Clause 34.—Provisions for grant of rebate of duty on excisable materials used in manufacture of goods which are exported are contained in rule 12A of the Central Excise Rules, 1944. To facilitate application of common procedures for grant of rebates of excise duties and of drawbacks of customs duties, the clause has been drafted closely on the lines of section 75 of the Customs Act, 1962.

Clause 35 is new and it provides for the refusal of rebate of excise duty in certain cases.

Clause 36 is new and it incorporates the provisions of rule 12 of the Central Excise Rules, 1944, for disallowing rebate for failure of the exporter to export or furnish proof of export within the prescribed time-limit.

Chapter V

Clause 37.—The requirement of prior declaration for growing of tobacco or coffee, which was hitherto regulated by rule 15 of the Central Excise Rules, 1944, is proposed to be incorporated in the Act itself.

Clause 38.—It more or less corresponds to section 6 of the existing Act.

Clause 39.—It incorporates the provisions of section 7 of the existing Act and also seeks to remove certain lacunae.

Clause 40.—It incorporates the provisions of rule 181 of the Central Excise Rules, 1944. It has been made obligatory that the person whose licence is to be cancelled should be given reasonable opportunity to show cause why the licence should not be cancelled. Provision has also been made for a time-limit of two months (with power to extend it by a further period of one month) for which a licence may be suspended.

Clause 41 is new and it authorises the Board to exempt any class of excisable goods or class of persons from the licensing provisions. Such exemptions, at present, are regulated by executive instructions.

Chapter VI

New; warehousing provisions contained in Chapter VII of the Central Excise Rules, 1944, are partly rules framed under section 37(2) (viii) of the existing Act and partly adaptations from the repealed Sea Customs Act, 1878. These were designed for application to unmanufactured products such as tobacco and coffee. Extension of excise coverage to petroleum products later necessitated grant of warehousing facilities for these products. The provisions now proposed are more broad-based for application both to manufactured and unmanufactured products, and have been modelled on the parallel provisions in the Customs Act, 1962. Clauses 42 to 61 of this Chapter are explained below.

Clause 42.—This clause provides that no excisable goods shall be deposited in a warehouse or, where such goods have been so deposited, be removed therefrom for home consumption or for export or to another warehouse or be otherwise dealt with except as provided by or under the Act. The clause is on the lines of section 71 of the Customs Act, 1962 and rule 144 of the Central Excise Rules, 1944.

Clause 43.—It continues the existing provisions in rule 139 of the Central Excise Rules, 1944, whereby only such excisable goods, as are specified in a notification, can be warehoused or removed from one warehouse to another.

Clauses 44, 45 and 46 deal with the grant and renewal of warehouse licences. Both public and private warehouses will be licensed hereafter.

Clause 47 provides for the execution of bonds by warehouse licensees in respect of warehoused goods and is based on rule 140 of the Central Excise Rules, 1944. The form of bonds and the conditions thereof will be prescribed by rules.

Clause 48.—Sub-clause (1) of this clause provides for the conditions subject to which any excisable goods may be deposited in a warehouse and is based on rule 141 of the Central Excise Rules, 1944.

Sub-clause (2) is new and it provides for a time-limit beyond which the excisable goods shall not be deposited in a warehouse.

Clause 49.—Under rule 145 of the Central Excise Rules, 1944, excisable goods are allowed to remain in a warehouse uniformly for a period of three years with powers for the Collector of Central Excise to extend this period by a further period of two years in the aggregate. Under the proposed clause, while a period of three years will continue to be the normal warehousing period, such period can be extended for good and sufficient reason by such authority and by such period as may be prescribed.

Clause 50 substantially reproduces rule 143 of the Central Excise Rules, 1944 relating to the owner's right to deal with warehoused goods.

Clause 51 is new and it provides for allowing manufacturing operations in relation to warehoused goods and for the grant of remission of duty on refuse or waste, if any, arising out of such operations. (Compare section 65, Customs Act, 1962).

Clauses 52 and 53 are based on the provisions of rules 152, 153, 154, 156A and 156B of the Central Excise Rules, 1944, for regulating removals of warehoused goods without payment of duty from one warehouse to another.

Clause 54 is new and it provides that excisable goods initially removed for deposit in a warehouse or removed from one warehouse to another, may, before deposit or re-warehousing, be cleared for home consumption or export or diverted for deposit in another warehouse.

Clause 55 reproduces the provisions of rule 159 of the Central Excise Rules, 1944, enabling re-assessment of warehoused goods in certain circumstances.

Clause 56.—This clause provides for—

(a) the responsibility and obligations of warehouse licensee in the matter of receipt, storage and custody of warehoused goods, and

(b) rights of the owner of such goods for compensation for damage.

(Compare rule 148 of the Central Excise Rules, 1944.)

Clause 57.—It corresponds to rule 160 of the Central Excise Rules, 1944, which has been recast so as to clearly place the onus on the licensee of the warehouse for the deficiency found therein. A time-limit has been prescribed for payment of duty demanded in respect of the deficiency, if any.

Clause 58 incorporates the provisions of rule 160 of the Central Excise Rules, 1944, in so far as they relate to goods improperly removed from a warehouse or are not removed from a warehouse within the prescribed warehousing period. Provision has been made for a time-limit within which the owner of such goods will have to pay the duty due.

Clause 59.—This clause provides for cancellation of warehouse licences in certain circumstances.

Clause 60 incorporates the provisions of rule 140 of the Central Excise Rules, 1944, in so far as they relate to the refusal of abatement of duty or allowance on account of deficiency of quantity, strength or

quality occurring in the goods after cancellation of licence for a warehouse; of rule 145A requiring the owner to remove the goods warehoused either for home consumption or for export within a specified period and of rule 181 against payment of compensation to the licensee for reason of such cancellation.

Clause 61 reproduces the provisions of rule 150 of the Central Excise Rules, 1944, for deposit of excisable goods in a Customs warehouse.

Chapter VII

Chapter III of the existing Act, *inter alia*, deals with the powers of Central Excise Officers to arrest and the procedure to be followed therefor. The powers to search premises or to seize things, etc., are derived by way of adaptations from the Customs Act, 1962. Such adaptations in practice have proved cumbersome. Clauses 62 to 74 seek to group at one place the powers of search, seizure and arrest as follows:—

Clause 62.—It incorporates the provisions of rule 197 of the Central Excise Rules, 1944. The Central Excise Officers are also being empowered to inspect any account whether prescribed or not.

Clause 63.—It substantially incorporates the provisions of rule 201 of the Central Excise Rules, 1944, in so far as they relate to search of premises. It is modelled generally on the lines of section 105(1) of the Customs Act, 1962.

Clause 64.—It substantially incorporates the provisions of rules 200 and 201 of the Central Excise Rules, 1944 relating to stoppage and search of conveyance or animal. It is modelled on the lines of section 106 of the Customs Act, 1962.

Clause 65.—It seeks to incorporate the provisions of section 13 (1) of the existing Act in relation to powers of arrest. Sub-section (2) of section 13 in the existing Act, which confers powers on Central Excise Officers to arrest persons who refuse to give their correct name or residence, has been omitted, being unnecessary.

Clause 66.—It incorporates the provisions of section 18 of the existing Act in regard to the manner in which searches and arrests are to be made with the modification that in relation to searches, report thereof is to be made to the Collector of Central Excise instead of to the Magistrate as in section 105(2) of the Customs Act, 1962.

Clauses 67 and 68 seek to incorporate the provisions of sections 19 and 20 of the existing Act in regard to disposal of persons arrested and the procedure to be followed by the Officer-in-charge of police station.

Clause 69.—It seeks to reproduce the provisions of section 21 of the existing Act in regard to inquiries made by Central Excise Officers against arrested persons. Sub-clause (3) is new and is based on the corresponding provisions of section 16(3) of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. It will be obligatory for the officers acting under clause 67 or 68 to produce the arrested persons before the nearest Magistrate within a period of twenty-four hours of arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate. [Compare also article 22(2) of the Constitution].

Clause 70 corresponds to section 14 of the existing Act and it provides for the summoning of persons to give evidence, etc., in inquiries under the Act.

Clause 71 is new and it substantially incorporates the provisions of section 110 of the Customs Act, 1962 hitherto adapted under section 12 of the existing Act for application to Central Excise cases in respect of seizure of confiscable property including documents. Where, however, it is impossible for the Central Excise Officer to take physical possession of the goods, conveyance, animal, etc., he may issue notice to the owner, etc., not to remove, part with or otherwise deal with the goods, conveyance, animal, etc., except with his previous permission subject, of course, to suitable safeguards against possible abuse.

Clause 72 is new and it requires the officer making a seizure or arrest to furnish, on demand, reasons in writing for the seizure or arrest. [Compare CERC report, Chapter II, paragraph 32 (vi), page 34 and article 22(1) of the Constitution].

Clause 73.—It provides for custody and retention of documents, etc., produced in response to summons issued under clause 70 or seized under clause 71. [Compare CERC report, Chapter II, paragraph 32 (v), page 34].

Clause 74 provides for sale, during the pendency of any proceeding, of confiscable property if such property is of a perishable or hazardous nature and where such property is an animal, if the owner thereof fails to provide for its upkeep from day to day. The clause makes it explicit that such property, if land or building, shall not be so sold.

Chapter VIII

Clause 75 is new and it groups together various contraventions which would render excisable goods liable to confiscation. Further, infringements of licensing provisions which at present are actionable in a court of law have been brought within the ambit of departmental adjudication. [Compare CERC report, Chapter II, paragraph 32 (iii), page 33].

Clause 76.—It substantially incorporates the provisions of section 37(4) of the existing Act relating to confiscation of land, buildings, etc., in certain cases.

Clause 77 is new and it incorporates the provisions of section 118 (confiscation of packages and their contents) and section 119 (confiscation of goods used for concealing smuggled goods) of the Customs Act, 1962, which are at present applied to Central Excise cases under section 12 of the existing Act.

Clauses 78 and 79 are new and they incorporate the corresponding provisions of section 120 (confiscation of smuggled goods notwithstanding

any change in form, etc.) and section 121 (confiscation of sale proceeds of smuggled goods) of the Customs Act, 1962. These provisions are at present applied to Central Excise cases under section 12 of the existing Act.

Clause 80 is new and it incorporates the penal provisions of sub-rule (2) of rule 200 of the Central Excise Rules, 1944, for failure to stop a conveyance or animal when so required by proper officer (compare clause 64) but the penalty proposed has been enhanced.

Clause 81.—It is new and provides for penalty for certain acts. The existing limit of Rs. 2000 is proposed to be enhanced to Rs. 5000 or three times the value of goods whichever is greater. [Compare CERC report, Chapter II, paragraph 32(iv), pages 33 to 34].

Clause 82 is new and it substantially incorporates the provisions of rule 151 of the Central Excise Rules, 1944 relating to offences with respect to warehousing.

Clause 83.—It is new and provides for penalty for fraudulently obtaining exemptions, etc., of duty.

Clause 84 provides for penalty for not accounting for excisable goods. The provisions of rule 223A of the Central Excise Rules, 1944, have been recast on the lines of the corresponding provisions of section 116 of the Customs Act, 1962.

Clause 85.—It incorporates the provisions of section 9 of the existing Act relating to failure to furnish the required information or to furnishing of false information and or rule 226 of the Central Excise Rules, 1944, in the matter of improper maintenance of accounts. The maximum penalty proposed is Rs. 5000 in either case.

Clause 86.—It incorporates substantially the provisions of section 37(3) of the existing Act and rule 210 of the Central Excise Rules, 1944 except that the limit on penalty has been enhanced from Rs. 2000 to Rs. 5000.

Clause 87.—It incorporates the provisions of section 33 of the existing Act with the modification that in respect of Central Excise Officers other than the Collector of Central Excise, the adjudicating powers will be specified by notification in the Official Gazette.

Clause 88 is new and it seeks to incorporate the provisions of section 124 (issue of show-cause notice before confiscation of goods, etc.) of the Customs Act, 1962, which are applied at present to Central Excise cases under section 12 of the existing Act.

Clause 89.—Sub-clause (1) of this clause reproduces section 34 of the existing Act. Sub-clause (2) which is based on sub-section (2) of section 125 of the Customs Act, 1962, is intended to make it explicit that any fine in lieu of confiscation will be in addition to any duty and charges payable in respect of the property involved.

Clause 90.—It incorporates the provisions of rule 211 of the Central Excise Rules, 1944 to the effect that property on confiscation is to vest in Central Government.

Clause 91.—It incorporates the provisions of rule 212 of the Central Excise Rules, 1944, relating to disposal of confiscated property in respect of which option to pay fine in lieu of confiscation has not been exercised. It also provides that during pendency of an appeal, the appellate authority may, after giving the appellant a reasonable opportunity of being heard in the matter, direct the officer adjudging such confiscation to sell, destroy, etc., such property in such manner as may be specified by that authority.

Clause 92.—It incorporates the provisions of rule 212A of the Central Excise Rules, 1944, relating to storage and upkeep charges in respect of property confiscated and redeemed.

Clause 93 is new. As in section 127 of the Customs Act, 1962, the award of any confiscation or penalty by a Central Excise Officer will not prevent the infliction of any punishment under any other provision of the Act or under any other law.

Chapter IX

Clause 94.—Sub-clause (1) and (2) seek to revise sub-section (1) of section 35 of the existing Act to the effect that—

(i) appeals against orders passed by Central Excise Officers lower in rank than the Collector of Central Excise will lie, as in Customs, to separate Appellate Collectors. Appeals against orders passed by such Collector will, however, continue to lie to the Central Board of Excise and Customs;

(ii) the appellate authority has been empowered to extend on sufficient cause being shown the period within which an appeal may be filed;

(iii) the existing provision that an order in appeal shall not have the effect of enhancing any confiscation or penalty is being omitted;

(iv) before enhancing duty, etc., the appellate authority must give “reasonable opportunity” of being heard to the person concerned; and

(v) provision has been made for the appellate authority to refer the case back to the adjudicating officer and to give directions for disposal.

Sub-clause (3) repeats the provisions in sub-section (2) of section 35 of the existing Act without any change. The clause, as a whole, has been brought in line with the provisions in section 128 of the Customs Act, 1962.

Clause 95.—The clause provides that if a person aggrieved by any decision or order desires to appeal against it, he shall deposit the amount of duty, etc., pending such appeal. (Compare section 129, Customs Act, 1962).

Clause 96 is new and it incorporates the provisions of section 130 of the Customs Act, 1962, relating to powers of the Board to review decisions, etc. [Compare CERC report, Chapter II, paragraph 32 (vii), page 34].

Clause 97.—This clause provides for revision by Central Government. (Compare section 131 of the Customs Act, 1962).

Chapter X

Clause 98 seeks to revise section 9 of the existing Act. It specifies the offences for purposes of prosecution. For offences of serious nature, the punishment proposed is imprisonment for a term which may extend to two years or fine or both. For less serious offences, the punishment proposed is imprisonment for a term which may extend to six months or fine or both. The clause has been drafted on the lines of the corresponding provisions of sections 132, 133 and 135 of the Customs Act, 1962.

Clauses 99 and 100.—These clauses repeat without change the provisions of section 17 and section 22 of the existing Act relating respectively to punishment for connivance at offences and to vexatious search, seizure, etc., by Central Excise Officers.

Clause 101.—It provides for punishment of Central Excise Officers who fail to perform their duty. Sub-clause (1) reproduces the provisions of section 23 of the existing Act. Sub-clause (2) incorporates the corresponding provisions of sub-section (1) of section 136 of the Customs Act, 1962 relating to connivance by Officers of Customs at offences. Sub-clause (3) reproduces the provisions of sub-section (3) of section 136 of the Customs Act, 1962 and of rule 232 of the Central Excise Rules, 1944, relating to unauthorised disclosure of information by officers with the modification that in certain specified circumstances the Central Excise Officers may disclose information learnt in their official capacity.

Clause 104 is new; it places the onus on the person concerned to prove that he possessed the requisite licence, authorisation or permit.

Clause 105 is new; it seeks to incorporate the provisions of section 139 of the Customs Act, 1962, in respect of presumptions as to documents.

Clause 106.—It seeks to reproduce without change the provisions of section 10 of the existing Act relating to power of courts to order forfeiture.

Clause 107 is new; it requires the courts to inform the gazetted officer of the Central Excise concerned before disposal of any dutiable goods or offending goods produced before them in connection with any offence under any other law. [Compare CERC report, Chapter II, paragraph 32 (i), page 33.]

Chapter XI

Clause 108 is new and it provides for claim for refund of duty fees or charges. It is modelled on section 27 of the Customs Act, 1962. Compared to the existing rule 11 of the Central Excise Rules, 1944, the clause seeks to make the following changes:—

- (a) the time-limit which has been enhanced from three months to one year (with further powers to extend it in cases of undue

hardship) will govern all refunds and not merely refunds of amounts paid through inadvertence, error or misconstruction;

(b) the said time-limit of one year will not apply where the duty has been paid under protest;

(c) refunds arising out of orders passed in appeal or other proceeding will be made without claim.

Clause 109 is new and it seeks to incorporate the provision of section 28 of the Customs Act, 1962. As against the provisions of the existing rules 10 and 10A of the Central Excise Rules, 1944 the clause has been so worded as to apply also to duties, charges or fees *not* levied. Provision has been made for giving to the person concerned an opportunity to show cause before requiring him to pay any amount short-levied or not levied. The time-limit for issue of the notice has been fixed as one year in ordinary cases and as five years where fraud is suspected.

Clause 110 seeks to revise section 11 of the existing Act to the effect that—

(i) any sum in arrear may be recovered by deducting from the amount, or by attachment and sale of the goods, which may be in the hands of the Central Excise Officer having jurisdiction over the person concerned or in the hands of any other Central Excise Officer. Even plants, machinery, etc., belonging to the person from whom such sum is due may be attached and sold for exacting

(ii) if the sum is not so recovered, the Central Excise Officer will proceed for its recovery through Tax Recovery Officers who may attach and sell the movable or immovable property of the person, or appoint a receiver for the management of the property. (Compare section 222 of the Income Tax Act, 1961);

(iii) as in Customs, if the terms of any instrument, *e.g.*, bond executed in connection with excise duties so provide, any amount due under such instrument may be recovered by deducting from the amount in the hands of the Central Excise Officer or by attachment and sale of excisable goods, if any, belonging to such person or through Tax Recovery Officers. (Compare section 142, Customs Act, 1962).

Clause 111.—It incorporates substantial the provisions of clause (iv) of subsection (2) of section 37 of the existing Act, relating to transport of excisable goods.

Clause 112 is new and it provides for powers to define Central Excise Area for facilitating manufacture of specified excisable goods and for that purpose to regulate possession, storage, sale or transport of excisable goods within any such area.

Clause 113.—Sub-clause (1) incorporates the provisions of rule 56 of the Central Excise Rules, 1944. The provisions have been broad-based so as to enable sampling of both the manufactured and unmanufactured products which are required to be examined by a Central Excise Officer or which are subjected to processing, or which are held in stock in a warehouse, for business or for manufacture of excisable goods.

Sub-clauses (2) and (5) are based on the corresponding provisions of section 144 of the Customs Act, 1962, relating respectively to return of samples to the owner after their purpose is over and remission of duty on the samples which are consumed or get destroyed during the course of any test or examination.

Sub-clause (3) provides that where it is not practicable to return the sample to the owner, etc., the market price thereof is to be paid to him.

Sub-clause (4) provides for retest of samples on payment of the prescribed fees.

Clause 114 is new and it incorporates the provisions of section 145 of the Customs Act, 1962, relating to the obligation of the owners to perform operations incidental to examination of goods.

Clause 115 is new and it incorporates the provisions of section 147 of the Customs Act, 1962, relating to liability of the principal and agent.

Clause 116 is new and it incorporates the provisions of section 148 of the Customs Act, 1962, relating to liability of the agent appointed by the person-in-charge of conveyance.

Clause 117 is new and it incorporates substantially the provisions of section 149 of the Customs Act, 1962, in respect of amendment of documents.

Clause 118 is new and it incorporates the provisions of section 150 of the Customs Act, 1962, to enable sale of excisable goods not being seized or confiscated goods.

Clause 119 is new and it empowers the Board to require bonds, where necessary, for securing the dues on excisable goods.

Clause 120 is new and it provides for the conditions and form of bonds. It also provides for acceptance of one bond in lieu of any two or more bonds which a person or a class of persons is required to execute.

Clause 121 is new and it incorporates the provisions of rule 229 of the Central Excise Rules, 1944, relating to provision of accommodation at factory or warehouse, with the modification that the provisions will apply only to factories or warehouses where excisable goods to which the provisions of clause 17 apply are manufactured or deposited. Owners of these factories or warehouses may also be asked to provide residential accommodation for Central Excise Officers.

Clause 122 is new and it incorporates the provisions of section 152 of the Customs Act, 1962, for authorising a Central Excise Officer to exercise functions assigned to his immediate superior.

Clauses 123 and 124.—These clauses seek to reproduce without change the provisions of sections 15 and 16 of the existing Act.

Clause 126 is new and it vests the adjudicating officer, and appellate and revising authorities with powers of Civil Court for certain matters. Such officer or authority will be "Civil Court" for purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 and will have powers to pass orders of interim nature and stay orders.

Clause 127 is new and it incorporates the provisions of section 154 of the Customs Act, 1962, relating to correction of clerical errors, etc.

Clause 128 is new. The existing provisions of rule 205 of the Central Excise Rules, 1944, relating to service of orders, decision, etc., have been recast on the lines of the corresponding provisions of section 153 of the Customs Act, 1962.

Clause 129 is new and it seeks to make the instructions, etc., issued by the Board or the Collector of Central Excises binding on the Central Excise Officers. (Compare section 119 of the Income-tax Act, 1961).

It has been made explicit that no orders, instructions, etc., will be given so as to interfere with discretion of the adjudicating officer of the Appellate Collector of Central Excise.

Clause 131 is new and it provides for appearance by authorised agents in proceedings before Central Excise Officers and appellate and revising authorities on the lines of section 288 of the Income-tax Act, 1961.

Clauses 132 and 133.—Section 37 of the existing Act authorises the Central Government to make rules for carrying into effect the purposes of the Act. The clauses now proposed seek to authorise the Central Government and the Central Board of Excise and Customs to make rules and regulations respectively for carrying into effect the purposes of the Act.

Clause 134.—This clause provides for laying before Parliament of rules and certain important notifications.

Clause 135 is new and it provides for repeal of the existing Act, in so far as it relates to excisable goods other than salt, and saves certain actions taken under that Act. The clause also provides for the continuance of the existing Act in matters relating to salt.

The First Schedule.—It is the same as the First Schedule in the existing Central Excises and Salt Act, 1944 except for the following changes—

(i) item 5 of the First Schedule of the existing Act relating to salt has been omitted and all other items have been re-numbered;

(ii) in item No. I.5 relating to Tea, provision has been made on the lines of the provision of rule 96-F, Central Excise Rules, 1944, for fixing zonal rates of duty.

The Second Schedule.—It specifies the amendments necessary to continue the existing Central Excises and Salt Act, 1944, in so far as it relates to duty on salt.

FINANCIAL MEMORANDUM

Clause 4, read with clause 3, of the Bill empowers the Central Government to appoint officers of Central Excise for the purposes of the Act.

2. Clause 110 of the Bill provides for recovery of the arrears of excise duty, fees, etc., through Tax Recovery Officers. Under clause 2(31), "Tax Recovery Officer" means—

(i) a Collector;

(ii) an Additional Collector or any other officer empowered to effect recovery of arrears of land revenue or other public demand under any law relating to land revenue or other public demand for the time being in force in the State as may be authorised by the State Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer under the Act;

(iii) any Gazetted Officer of the Central Government, who may be authorised by the Central Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer under the Act.

3. Clause 123 of the Bill provides that all officers of Police and Customs and all officers of Government engaged in the collection of land revenue and all village officers shall assist the officers of Central Excise in the execution of the Act.

4. When the Bill becomes law and is brought into operation, the existing machinery will be utilised for the execution of the Act. However, Appellate Collectors will have to be appointed for hearing appeals under clause 94 of the Bill. At present it is proposed to appoint four Appellate Collectors.

5. From the financial point of view, therefore, apart from the existing staff employed on the levy and collection of excise duties, the only new feature is the appointment of four Appellate Collectors. In other words, the Bill involves no greater financial obligation than what is already involved in the administration of excise duties under the existing Central Excises and Salt Act, 1944, except in the matter of Appellate Collectors.

6. In the year 1968-69, the number of Gazetted Central Excise Officers was about 1613 and that of the other establishment (including Class IV) was about 30,011. For the year 1968-69, the expenditure budgeted for the administration of excise duties is about Rs. 13.49 crores (voted) and Rs. 50,000 (charged). The said amount of Rs. 13.49 crores includes Rs. 44,000 payable to some of the States for collection of arrears of excise duties. No sum is payable to the officers of Police and Customs, village officers, etc., for assisting the officers of Central Excise in the execution of the Act. The additional expenditure on the appointment of four

Appellate Collectors including their stenographers will be about Rs. 1,40,800 per year as follows:—

A. Recurring Expenditure

	No.	Annual emoluments Rs.	Cost Rs.
(a) Appellate Collectors	4	4 x 25,200	1,00,800
(b) Stenographers	4	4 x 5,000	20,000
(c) Incidental expenses contingencies, etc.	20,000
Total			<u>1,40,800</u>

B. Non-recurring Expenditure

Nil.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 132 of the Bill empowers the Central Government to make rules to carry out the purposes of the Act. Sub-clause (2) of this clause catalogues the matters with respect to which rules may be made. These matters, *inter alia*, include the time at which, the manner in which, the duty or duties leviable on any excisable goods shall be paid; the conditions subject to which excisable goods may be deposited without payment of duty in a place approved by the Collector of Central Excise; the extent to which, the conditions and limitations subject to which, the time at which and the manner in which, the credit of duty shall be allowed and the set-off thereof shall be made; and the form of application for licence, the form of licence to be granted or renewed and the particulars which such application and licence shall contain.

2. Besides clause 132, certain clauses like clauses 10, 32, etc., also make provision empowering the Central Government to make rules regarding valuation of goods for purposes of excise duty, the grant of rebate of duty on excisable goods exported, etc.

3. The matters referred to above, with respect to which rules are to be made, are matters relating to detail and as such the delegation of the legislative power is of a normal character.

4. Clause 133 empowers the Central Board of Excise and Customs to make regulations consistent with the Act and the rules. The matters with respect to which regulations may be made have been specified in sub-clause (2) of that clause. Under the said sub-clause (2), regulations may be made by the Board with respect to the form of application for removal of excisable goods and the form of the accounts and returns to be submitted by manufacturers, etc. These are also matters of detail and as such the delegation of the legislative power is of a normal character.

5. Certain clauses of the Bill like clauses 9, 12, 13, 17, etc., empower the Central Government to issue notifications specifying the excisable goods to which the provisions of these clauses will apply. Since the conditions of production or manufacture of various excisable goods differ widely, it is hardly practicable to specify the excisable goods in the clauses themselves. The delegation of the legislative power in these clauses is thus also of a normal character.

6. The Bill also contains provisions whereby the Central Government is empowered to reduce the rigours of excise formalities or the burden of excise duty in cases of genuine hardship. Thus, clause 11 empowers it to fix tariff values in respect of excisable goods which are chargeable with *ad valorem* duty; clause 21 empowers it to specify excisable goods which may be removed without payment of duty for manufacture or on deferment of payment of duty and clause 24 empowers it to allow credit of excise duty or, as the case may be, of the additional duty under the Indian Tariff Act, 1934, paid on materials, component parts or ingredients to be specified in a notification and as are used in the manufacture of specified excisable goods. Further, clause 29 empowers the

Central Government to exempt either generally or specially excisable goods from the whole or part of the duty leviable thereon and such exemptions may be granted so as to have retrospective effect. It is not possible to specify in the Bill itself the excisable goods with respect to which the powers under these clauses may be exercised. However, guiding lines for the exercise of powers under these and similar other clauses have been specified in the clauses themselves. The delegation of the legislative power in these clauses is also of a normal character.

7. Clause 136 of the Bill empowers the Central Government to make orders for the removal of difficulties in giving effect to the provisions of the Act. Such orders should be consistent with the provisions of the Act and shall not be made after the expiration of two years from the commencement of the Act.

8. Under clause 134, all rules made under the Act and all notifications issued under the various clauses of the Bill, such as clauses 9, 11, 12, 13, etc., will be laid before Parliament.

9. Under sub-clause (2) of clause 136, all orders made by the Central Government under sub-clause (1) thereof removing difficulties will also be laid before Parliament.

S. L. SHAKDHER,

Secretary,